

**BEFORE JUSTICE DEEPAK VERMA (RETD.), OMBUDSMAN**

**HYDERABAD CRICKET ASSOCIATION**

**ORDER PASSED ON 04.07.2021**

1. This Order has been kept in abeyance as it was informed to me that SLP filed in Supreme Court against the Order dated 06.04.21 (passed by the Hon'ble High Court of Telangana) is likely to be listed on 01.07.2021, therefore, I deemed it fit to wait for the Supreme Court's Order, however the said matter was not listed on 01.07.2021 and thus could not come up for hearing. I have been given to understand that the said matter is not likely to come up for hearing anytime soon, therefore, without any further delay, the said Order is being passed for effective and proper governance of HCA.
2. This Order shall govern two Complaints filed by and on behalf of HCA which are as follows:
  - i. Complaint filed by HCA Against 5 Office Bearers
  - ii. Complaint filed by President against the show cause notice issued to him by 5 members of Apex Council

**Complaint filed by HCA Against 5 office bearers**

3. I shall now deal with the first Complaint against 5 Office Bearers i.e. Shri K. John Manoj (Vice President, HCA), Shri R. Vijayanand (Secretary, HCA), Shri Naresh Sharma (Joint Secretary, HCA), Shri Surender Agarwal (Treasurer, HCA) and Smt. P. Anuradha (Councillor, HCA).
4. Complaint dated 23.04.2021 had been received wherein it had been stated that 8<sup>th</sup> Apex Council Meeting dated 06.11.2020 had been convened on the behest

of Sh. R. Vijayanand (Secretary). Apart from him, Shri K. John Manoj, Vice President (HCA), Shri Naresh Sharma (Joint Secretary), Shri Surender Agarwal (Treasurer) and Smt. P. Anuradha (Councillor) attended the 8<sup>th</sup> APEX Council Meeting dated 06.11.2020 and signed the said minutes of the meeting in December 2020. The said meeting was convened by Sh. R. Vijayanand and certain resolutions were passed without any knowledge or communication to the President, two player counsel nominees and the CAG nominee. Item no. 14 of the said minutes referred to a unanimous approval and decision made to appoint Shri B. Chandrasen Reddy, Advocate as the Standing counsel of HCA. However, when the said minutes were sent to Shri Santosh Daware, (CAG Nominee & member of the APEX Council) for his signature, he recorded his observation that the said proposal was never discussed in the Minutes on 13.12.2020 (7<sup>th</sup> Apex Council Meeting) & consequently raised his objections on appointment of Shri B. Chandrasen Reddy, Advocate as the Standing counsel of HCA.

5. Moreover, President of HCA also agreed with the observations of Shri Santosh Daware and states that all the 5 members mentioned above have actively abetted the false insertion/inclusion of an item that was not discussed and therefore maybe charged with abetting the commission of administrative impropriety as member of the APEX Council.
6. In addition to the resolution mentioned above, said 5 members passed another Resolution authorizing Sh. R. Vijayanand (Secretary) to represent the Association in all legal proceedings, litigation and Court cases including O.P. No. 17 of 2020. This too was done without any information and intimation to other members of the Apex Council. It has been prayed that these 5 members have supported the deceitful actions of the Secretary, HCA and may

be charged with abetting the commission of administrative impropriety as member of the APEX Council.

7. In reply to the show cause notice issued to these 5 members, they have submitted that the particular meeting which was not a meeting of the Apex body, it was a resolution by circulation of the Apex Council members since the quorum for the APEX Council is five members and all such resolutions shall be ratified at the next meetings of the Apex Council, there was no need to inform the other members of the APEX Council. However, as per rule 15(9) of the Constitution of HCA, “*A resolution by circulation by ALL members of the APEX council shall be as valid and as effective as if it had been passed at a meeting of the APEX Council. Such a resolution shall be ratified at the next meeting of the APEX Council.*” Since, the same was not done, therefore the above reply is invalid in law.
  
8. It had further been stated in the Complaint that, the Secretary had appointed himself as the representative from HCA in PSROP 17 of 2020 which was an important court case against HCA and these 5 members have acted contrary to the principles of collective responsibility, committed administrative perjury and indulged in dragging the APEX Council which is expected to be neutral in such a controversy by deliberately abetting the concealment of the existence of the court case and actively abetted the deceitful actions of the Secretary HCA. It had been stated that these members deliberately and deceitfully concealed the information pertaining to the court case from the President, two player counsel nominees and the CAG nominee with an intention to bring upon an adverse judgement on HCA in an important regulatory matter. Moreover, even the address of HCA given in the said proceedings was that of the residential address of the Secretary which further suggests that these members were trying to hide this information from other

members of Apex Council. Therefore, the above mentioned 5 members of the Apex Council maybe charged with abetment of administrative impropriety, concealment of facts and collusion with the petitioner in PSROP 117/2020.

9. After receiving the Complaints, a show cause notice dated 01.06.2021 was issued to these 5 members of Apex Council. In the replies submitted by these members (which are identical in verbatim), it had been submitted that the show cause notice issued by me is not maintainable as I don't have the authority of Ombudsman. They further stated that, at the AGM dated 11.04.2021, General Body proposed and agreed on the name of some other Learned Judge as Ombudsman of HCA. Therefore, I have not been appointed as Ombudsman in the said AGM. It had been further stated that receipt of complaints directly and issuing a show cause notice thereafter is contrary to the Rules and Regulations of HCA as per its Constitution. They further stated that I did not forward them a copy of the Complaint against which show cause notice had been issued.
  
10. In order to deal with the said Complaint(s), it is imperative to first go through the Order dated 06.04.2021 wherein the issue of my appointment was discussed in detail which shows that I indeed have the power to decide such complaints in the capacity of Ombudsman. An order dated 06.04.2021 had been passed by the Hon'ble High Court of Telangana (against the Order passed in PSROP 117 of 2020 before ADJ who had stayed my appointment as Ombudsman). The Order dated 06.04.2021 first deals with the Supreme Court judgment of *BCCI v. Cricket Association of Bihar*, (2015) 3 SCC 251 wherein Justice Lodha Committee was appointed to make/amend rules, regulations to prevent frauds, conflict of interests and streamlining it's

working. One of the important recommendations by the above-mentioned committee was to set up a post of Ombudsman and Ethics Officer.

11. Hon'ble High Court observed that need of having an Ombudsman and Ethics Officer, as recommended by the Committee headed by Hon'ble Justice R.M. Lodha and accepted by the Supreme Court in above-mentioned judgment, their importance is obvious and the urgency of their appointment, cannot be ignored.

12. The Hon'ble High Court further recorded as follows:

- i. *“Para 43 - the most striking thing to note from the order passed by the ADJ Court was that the minutes of the Apex Council held on 06-06-2020 where a **decision was taken to recommend the nomination of Justice Deepak Verma as Ombudsman-cum-Ethics Officer of the 2nd respondent Association was not filed before it.** This is noted in para 11 by the Court below stating “Minutes of the Apex Council meeting held on 6-6-2020 are not before this Court as none chose to file them”. **How the Court below could have come to the decision in the IA without even seeing the said Minutes, I am not able to understand.***
- ii. *Para 44 - Learned counsel for petitioner pointed out that though the decision of the Apex Council of the 2nd respondent was taken on 06-06-2020 regarding appointment of Ombudsman and Ethics Officer, the O.P. came to be filed 5 months later, on 02-11-2020 by the 1st respondent, and on 07-11-2020, a resolution was passed by the Vice President, Secretary, Treasurer, Joint Secretary and Councilor, who are members of the Apex Council authorizing the Secretary of the 2nd respondent Association Mr.R.Vijayanand to represent the Association in all legal proceedings, litigation and Court cases including the subject O.P.No.17 of*

2020 against appointing Justice Deepak Verma as Ombudsman and Ethics Officer of the 2nd respondent. **In this meeting dt.7.11.2020, admittedly, the President Mohammad Azharuddin, the C.A.G. nominee and the nominees of the Men Cricket Players and Women Cricket Players did not participate and the counsel for the 2nd respondent is unable to explain why this is so. It appears that they were not aware of this meeting at all and it was held behind their back.**

- iii. *Para 46 – Learned counsel for petitioner pointed out that the very passing of this resolution dt.7.11.2020 clandestinely excluding the President and other nominees by 5 members of the Apex Council out of 9 members indicates mala fides of the Secretary Mr.R.Vijayanand. **I find considerable force in this contention.***
- iv. *Para 48 – Learned counsel for petitioner pointed out that the Minutes of the Apex Council meeting held on 06-06-2020, filed before this Court by the 2nd respondent, indicates that all the members including the Vice President, Secretary R.Vijayanand, Treasurer and Counselors participated and opined that the Ombudsman and Ethics Officer has to be appointed at the earliest and it would not be proper to wait for the Annual General Meeting to appoint an Ombudsman and Ethics Officer; that the Apex Council can appoint an Ombudsman and Ethics Officer and later the same can be ratified by the Annual General Meeting as the Annual General Meeting cannot be conducted in the near future on account of Covid-19 pandemic. **A perusal of the minutes of the said Apex Council meeting corroborates this submission.***
- v. *Para 49 – Learned counsel for petitioner also referred to the Minutes of the meeting of the Apex Council held on 13-08-2020 wherein the Apex Council confirmed the*

*Minutes of the earlier meeting held on 06-06-2020. He contended that in that meeting, there was a discussion about whether letter was addressed to Justice Deepak Verma to obtain his consent, and the Mr.R.Vijayanand, the Secretary of the 2nd respondent stated that letter dt.05-11-2019 had been addressed to Justice Deepak Verma requesting his consent, that Justice Deepak Verma had given his consent on 07-11-2019, and on 09-11-2019, Justice Deepak Verma was informed that his consent for being appointed as Ombudsman and Ethics Officer would be placed in the General Body Meeting for its approval.*

- vi. *Para 50 – Learned counsel for petitioner contended that in the counter-affidavit dt.17-11-2020 filed on behalf of 2nd respondent by the Secretary there is no mention about the Apex Council meeting on 13-08-2020. **This allegation is correct. No reason is assigned by counsel for 2nd respondent why this fact was suppressed in the counter affidavit of the Secretary of 2nd respondent in the O.P.***
  
- vii. *Para 51 – Thus, a decision was taken by majority of the members of the Apex Council that the issue of monthly remuneration of Ombudsman and Ethics Officer be referred to the Annual General Meeting for its guidance and approval as the Annual General Meeting was only the competent authority to decide the issue of Ombudsman and Ethics Officer.*
  
- viii. *Para 52 – Learned counsel for petitioner pointed out that on 07-11-2020, **the very next day, clandestinely, behind the back of President of the Association and 3 other members, as pointed out above, the Secretary of the 2nd respondent R.Vijayanand got a resolution passed authorizing himself to appear in this O.P. relating to appointment of Ombudsman and Ethics Officer.** He pointed out that there is no reference in the counter-affidavit filed on 17-11-2020 by the Secretary. **This***

*allegation is correct. No reason is assigned by counsel for 2nd respondent why this fact was suppressed in the counter affidavit of the Secretary of 2nd respondent in the O.P.*

- ix. *Para 54 – When a specific question was put to learned counsel for respondent Nos.1 and 2 as to why, behind the back of the President and 3 other members, the Secretary got passed the resolution dt.07-11-2020 from the Apex Council and why the Secretary suppressed the subsequent Apex Council meetings dt.13-08-2020 and 06-11-2020, there was no satisfactory answer from the said counsel.*
- x. *Para 55 – They also did not dispute that the address of the 2nd respondent is Rajiv Gandhi International Cricket Stadium, Uppal Road, Hyderabad and not plot Nos.1 to 5, Tarnaka, Uppal Road, Hyderabad, shown in the OP by the 1st respondent as the postal address of the 2nd respondent. They also did not deny that the address given by the 1st respondent in the O.P. is not the official/actual address of the 2nd respondent.*
- xi. *Para 57 – From the facts mentioned above and the events which are narrated above, it is clear that the Secretary of the 2nd respondent, having agreed to the appointment of Justice Deepak Verma as Ombudsman and Ethics Officer in the meeting of the Apex Council held on 06-06-2020, which was ratified in the subsequent meeting of the Apex Council held on 13-08-2020, tried to sabotage the said appointment by setting up the 1st respondent to file the O.P. giving incorrect address of 2<sup>nd</sup> respondent, and then himself filing a counter agreeing with the contentions of the 1st respondent on all respects, by suppressing his own conduct in the Apex Council meetings held on 06-06-2020, 13-08-2020 and 06-11-2020.*

- xii. *Para 58 – By utilizing the services of 1st respondent, the Secretary of the 2nd respondent has affectively sabotaged the decision of the Supreme Court to have an Ombudsman and Ethics Officer and the mandate of the amendment to the rules and regulations of the 2nd respondent (clauses 39 and 40), and by misleading the Court below, secured an interim order by colluding with the 1st respondent.*
- xiii. *Para 59 – It is therefore clear that Sri R. Vijayanad, Secretary of the 2nd respondent, having agreed to a particular decision in the Apex council meeting held on 6.11.2020 in the presence of all Members of the Apex Council, clandestinely arranged another meeting on the same day with (i) himself, (ii) Surender Kumar, the Treasurer, (iii) K. John Manoj, the Vice President, (iv) Naresb Sharma, Joint Secretary and (v) Councillor Anuradha, behind the back of the President Mohammed Azharuddin, got passed another resolution, and passed it of as the Apex Council Meeting Resolution dt.6.11.2020, and deliberately misled the Court below to help the 1st respondent get the impugned interim order.*
- xiv. *Para 60 – In this view of the matter, I am of the opinion that the O.P.No.17 of 2020 is a collusive proceeding intended to undo/delay the appointment of Ombudsman and Ethics Officer for the 2nd respondent and is an abuse of process of Court.*
- xv. *Para 61 – For the aforesaid reasons, the impugned order dt.17-11-2020 in I.A.No.674 of 2020 in PSROP No.17 of 2020 of the XXV Additional Chief Judge, City Civil Court, Hyderabad cannot be sustained.*

*xvi. Para 62 – .....the order dt.17-11-2020 in I.A.No.674 of 2020 in PSROP No.17 of 2020 of the XXV Additional Chief Judge, City Civil Court, Hyderabad is set aside....”*

13. It can be seen clearly from the Order of Hon’ble High Court of Telangana that a stay was indeed provided by the Additional Chief Judge, City Civil Court, Hyderabad with respect to my appointment as Ombudsman, however the said Order passed by Additional Chief Judge has now been set aside by the Hon’ble High Court. Therefore, it can be clearly inferred that I will continue as Ombudsman atleast till the time a Superior Court of law says otherwise. Although I have been informed that an SLP against this High Court Order has been filed, however no hearing/order has taken place in the said SLP so far and therefore, till the time any adverse Order is passed by the Supreme Court against the High Court Order, the Order dated 06.04.2021, stands legally valid and continues to be in force.

14. We shall now deal with what transpired in the AGM dated 11.04.2021. I am in receipt of Minutes of the 85<sup>th</sup> AGM dated 11.04.2021 and Agenda Item No. 6 of the said Minutes state as follows:

***“AGENDA ITEM NO. 6: To appoint the Ombudsman and Ethics Officer***

*Mr. Mohd. Azharuddin, Chairman categorically stated that as per the Apex Council Meetings held on 06-06-2020 and on 13-08-2020, Honble Justice Sri Deepak Verma, Retired Judge, Supreme Court of India was appointed as Ombudsman and Ethics Officer of the Hyderabad Cricket Association.*

*The Chairman stated that, no other name was proposed by the Apex Council. Further, he also stated that, as on date, no other Judge has been offered nor any consent has been received for the post of Ombudsman / Ethics Officer.*

*The Chairman then stated as mentioned below :*

*"You are all aware that Justice Deepak Verma's name has been recommended in the past by the APEX Council for ratification of his appointment by the General Body. The past conventions of HCA (appointment of Justice Narsimha Reddy) & practice followed in other state associations is that it is the APEX Council that considers names, obtains consent of the Hon'ble judges as required under 40(1) and recommends names of Honourable Judges for appointment by the General Body.*

*This is also because the APEX Council is responsible for governance and the Ombudsman is an institution that is responsible for resolving disputes, enquiring into complaints of misconduct & therefore is responsible for Governance in that sense under the HCA constitution*

***In this case the APEX Council has just made only one recommendation i.e. Justice Deepak Verma. Since Justice Deepak Verma fulfils the eligibility criteria for recommendation to the General Body, with the consent of the General Body I hereby give a ruling that Justice Deepak Verma, Retd. Judge, Supreme Court of India is the **only recommended candidate before the General Body & is declared APPOINTED**"***

*Mr. R.M. Bhaskar Proposed the name of Hon'ble Justice Deepak Verma and said that he should be continued as Ombudsman and Ethics Officer and also stated that the High court of Telangana has upheld the appointment of Honorable Deepak Verma as Ombudsman and Ethics officer. The same was seconded by Mr. Prakash Chand Jain.*

*As per the clause 12 sub clause 2 of the Chapter III of Memorandum of Association AND Rules and Regulations 2018 of the Hyderabad Cricket Association, Mr. Mohd. Azharuddin, Chairman of the Meeting using his discretionary power requested the Members to vote by show of hands.*

*Majority of the Members of the General Body supported the appointment of Justice Deepak Verma, Retd. Judge, Supreme Court of India by show of hands and passed the following resolution.*

*NO.6: Resolved and ratified to continue the services of Hon'ble Justice Deepak Verma, Former Judge, Supreme Court of India as Ombudsman cum Ethics Officer of the Hyderabad Cricket Association till the next Annual General Meeting with a remuneration of Rs. 2,00,000 /- (Rupees Two Lakhs Only) per month.*

15. It can be clearly seen from the Minutes of the 85<sup>th</sup> AGM that my name was put forward to be appointed as Ombudsman and the same was seconded by the General Body of HCA. Resolution No. 6 mentioned above make it clear that I am appointed and to continue as Ombudsman.

16. As mentioned above, The High Court Order and the Minutes of 85<sup>th</sup> AGM make it clear that I am Ombudsman of HCA and will remain the same till the time any Superior Court of law stays the same or passes an adverse Order to that effect. Therefore, plea taken by the 5 members that I am not to assume the powers of Ombudsman is untenable and is incorrect.

17. I am also in receipt of a letter dated 14.04.2021, wherein Mr. R. Vijayanand (Secretary) informed me that the General Body has appointed some other Learned Judge as Ombudsman and that I no longer can assume the charge of the same, however there was no mention of Minutes of the Meeting produced herein above at para 14 wherein my name was approved. It can be clearly understood that these 5 members remained silent till the time all Apex Council members were present, however soon after the President and 3 other members of Apex Council left the AGM (thinking the AGM has been concluded), these 5 members continued without intimation to the members who had left and recorded a new set of Minutes in order to disrupt the smooth functioning of HCA.

18. If any member had any issue with my appointment as Ombudsman, it should have been brought in presence of all apex council members. The very fact that they remained silent in the first go and conducted another Meeting once everyone else left (thinking AGM is over), talks volume of their malafide conduct and that they are trying to derail the process of smooth functioning in HCA. The very passing of these new Minutes clandestinely excluding the President and other nominees by these 5 members of the Apex Council out of 9 members indicates their mala fides. Apart from the above, malafide intention and ill conduct of these 5 members is also evident in the Order dated 06.04.2021 passed by the Hon'ble High Court of Telangana. Moreover, after conclusion of 85<sup>th</sup> AGM (wherein all Apex Council members were present), another AGM (wherein 4 Apex Council members including President were not aware and present) without compliance of rules of notice period could not have been conducted by these 5 members.

19. With regard to the averment made by these 5 members that I did not forward them a copy of complaint, it can be clearly understood from the record that

the same was forwarded to them by Apex Council and due procedure was followed in this case, show cause notice was issued to them by Apex Council on 11.04.2021 and they had submitted their replies till 21.04.2021. Moreover, it is not the duty of Ombudsman to forward the complaint to the members. The person filing the complaint needs to send the Complaint to the person against whom same is filed, which was done in this case.

20. It has also been averred in the replies (identical in nature) filed by these members that receipt of complaints directly and issuing a show cause notice thereafter is contrary to the rules and regulations of HCA as per its Constitution. I would like to make it clear that the said Complaints have not come directly to me. Said complaints were filed by one Sh. Mahboob Ahmed of Charminar Club. On the basis of the said Complaint, a show cause notice was issued by Apex Council to these members, to which a reply had also been given by them. It is only after this, that these complaints have been forwarded to me under Section 41 (1) (a) and Section 41 (1) (b) of the Constitution of HCA.

21. I would like to make it clear that, just because these 5 members believe on their own accord that I am not ombudsman does not take away my powers which are now been confirmed by the HC judgment and the minutes of the 85<sup>th</sup> AGM as well. These members cannot evade the due process of law just by stating that they don't agree to my appointment. It is clear from the above, that these members have malafide intentions and do not want smooth functioning of HCA. It for this reason and reasons mentioned above, **I hereby direct that these members are temporarily disqualified from performing their duties as Office Bearers of the Apex Council till the time these Complaints attain finality.** These complaints will finally be

decided after conducting an online hearing within 3 weeks from now. The exact date and details of the online hearing shall be provided in due course.

**Complaint filed by President against the show cause notice issued to him by above-mentioned 5 members of Apex Council**

22. In a separate application filed by Sh. Mohd. Azharuddin, he has challenged the show cause notice issued by these 5 members dated 15.06.2021 and he has further complained that he was suspended only as a counterblast to his various objections to the kind of functioning by the other Office Bearers and cited various details. This complaint arouses a larger question, whether the former Test Cricketers, who became Members of respective Cricket Associations by virtue of the Hon'ble Supreme Court Judgment passed from time to time in Civil Appeal No. 4235/2014 and connected matters, be suspended by a Cricket Association and the one who is a President in the said disturbed circumstances and atmosphere and whether such action is violative of the afore-mentioned judgments. The membership of such distinguished personalities is in effect an honorary permanent membership and as such cannot be taken away on the behest of few members of an Apex Council.

23. Moreover, as mentioned in Section 41 (1) (a) and Section 41 (1) (b) of the Constitution of HCA, any grievance, complaint or dispute has to be decided by referring the same to Ombudsman. Since the said complaint against Sh. Azharuddin was not forwarded to Ombudsman and in effect not decided by the Ombudsman, the same has no legal validity. Apex Council on its own accord cannot take such a decision.

**24. Therefore, I deem it appropriate to set aside the resolution (if any) passed by these 5 members in suspending the duly elected President,**

issuing a show cause notice and direct them to refrain from any subsequent actions against the President of HCA, Sri Mohd. Azharuddin. Therefore, I direct that Sh. Mohd. Azharuddin shall continue as President and all complaints against Office Bearers shall only be decided by the Ombudsman. From the aforesaid facts and features, it is clearly reflected that instead of encouraging the game of Cricket, each one is playing their own politics for the reasons best known to them. Thus, it defeats the very purpose for which HCA has been formed.

25. I would like to further state that, apart from the 2 complaints dealt herein above, there are various other complaints which are pending before me. The same shall be taken up in the online hearing, the details of which shall be shared in due course.



DATE – 04.07.2021

Place – New Delhi

Justice Deepak Verma

Ombudsman

HCA