

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)

Central Information Commissioner

CIC/LS/C/2012/000565

Subhash Chandra Agrawal v. PIO, Department of Sports

RTI	:	29.09.2011
FAO	:	Nil
Second Appeal	:	14.12.2011
Hearing	:	14.06.2017
Complainant	:	Present
Public Authority	:	Mr A K Patro, CPIO
Decided On	:	16.06.2017

FINAL ORDER

FACTS:

1. The Complainant sought information (1) whether Honourable Prime Minister/PMO is aware of dissatisfaction expressed by national hockey-players winning Asian Champions Trophy on just Rs 25000 award-money announced by Hockey India? (2) Is Honourable Prime Minister/PMO aware that Indian cricketers winning World Cup Final were given Rs. 2-crore award money by Board for Control of Cricket in India (BCCI) after cricketers felt dissatisfied on earlier announcement of Rs. one crore, that too in addition to bumper-awards by state-governments and others? (3) Complete and detailed information on action taken to remove such vast disparity in award-money for national players of cricket and others (4) Complete and detailed information on award-money paid to sports persons by Union government in last three years; (5) List of sports bodies (with addresses and names of office-beaters) registered with Union government; (6) Is it true that irregularities have been reported about some sports-bodies? (7) If yes, steps taken to action taken on such irregularities reported against sports bodies, and also to check any such probable irregularities in future. The RTI application was made to the CPIO of PMO, who vide letter dated 5-10-2011, transferred to the Ministry of Youth Affairs and Sports. However, no response whatsoever appears to have been given to the appellant by the said Ministry. He filed complaint before this Commission.

Decision :

2. In this complaint the crux of the issue was why the BCCI and its cricket administration was not made accountable. The complainant demanded the action on bringing the BCCI under RTI Act, as suggested by the Lodha Committee and Supreme Court in recent Bihar Cricket Association case. The CPIO Mr. Patro said that Government's policy is to make every National Sports Federation a public authority under RTI Act and the BCCI is clearly declared as the National Sports Federation. Then the appellant asked why BCCI is not implementing the RTI and disclosing the information as per Section 4(1)(b) of RTI Act. He also contended that there is a huge disparity in giving reward money to the sportsman who won medals at Olympics and other prestigious international tournaments, and also disparity between Cricket and other sports. He said there is a huge competition between various governments headed by different political parties announcing reward money. If one government gives Rs 10 lakh, the other announces Rs 1 Crore. When cricketers winning world cup expressed dissatisfaction, their reward money was doubled to Rs 2 Crore. The political executive government is trying to give more to gain publicity of sports-encouraging *raj* without any concern for public money. He also asked why the BCCI is still using the logo designed by British Raj in 1928 which resembles 90 per cent the symbol of star of India given by British Raj to his loyal princes, as mentioned in the order of CIC in CIC/MOYAS/A/2017/116693 on 9.6.2017? Why the Government of India does not change it to truly Indian Symbol with either tricolor or four lions or Ashoka's Dharm Chakra or any other logo decided by the Government of India?

3. Justice Mudgal Committee which was probing the IPL affairs in 2014 has highlighted in its report the need for enactment of a special legislation to declare all forms of manipulations of sports, corruption and malpractices a criminal offence. The CPIO of the Ministry of Youth and Sports Affairs represented that draft legislation was revised under the title 'The Prevention of Sports Fraud Bill, 2015 aiming at prevention of match fixing, spot fixing, manipulation of sports results, disclosure of insider information etc. The PMO has advised the department to re-examine whether sports frauds needs a standalone Act or it can be dealt with by making necessary provisions in the Indian Penal Code and

to seek expert legal opinion on this. Accordingly the Ministry of Law was consulted on this issue. Beyond this the progress on this aspect is not known.

4. Regarding the request about National Sports Federations, Mr. Patro explained that every year the Ministry recognizes the NSFs and the list of recognized National Sports Federations all over country is available on the website of the Ministry. The list included NSFs for 47 sports but nothing about NSF on the Cricket. Because of this absence, a citizen is not in a position to know which body is the NSF for cricket and whom to ask about cricketing irregularities.

5. Meanwhile, it was brought to the notice of the Commission that the Minister of Youth Affairs and Sports answered an unstarred question No. 2097 raised by four MPs on 27.03.2012 in Loksabha on this issue. The question was:

- a) Whether the Government proposes to bring various sports associations/federations including the Board of Control for Cricket in India (BCCI) under the ambit of the Right to Information Act, 2005 so as to ensure transparency in their functioning;
- b) if so, the details thereof and the response of these federations and BCCI thereon;
- c) the progress made by the Government so far in this regard;
- d) whether the BCCI gets various concessions in income tax, custom duty etc. and land at concessional rates for stadia; and
- e) if so, the details thereof during the last three years and the current year?

6. The answer given by the then Minister for Youth Affairs and Sports was:

(a) to (c) The need for bringing National Sports Federations (NSFs) including BCCI under ambit of Right to Information act, (RTI) 2005 has been voiced from to time to time. Accordingly Government in April, 2010 declared all the NSFs receiving grant of Rs. 10.00 lakhs or more as Public Authority under Section 2(h) of the RTI, 2005. There are major court rulings for treating the National Sports Federation as a public authorities,

especially in view of the state-like function discharged by them such as selection of the national team and control and regulation of sports in the country, which also make them amenable to the writ jurisdiction of High Courts under Article 226 of the Constitution of India. Notwithstanding the above, the Government has proposed to bring all the National Sports Federations including BCCI under the RTI Act in the proposed Draft National Sports Development Bill with provision of exclusion clause protecting personal/confidential information relating to athletes.

(d) & (e) In so far as BCCI, in particular, is concerned, Government of India has been treating BCCI as a National Sports Federation and approving the proposal of BCCI for holding the events in India and participation in International events abroad. The Central Government does not extend any direct financial assistance to BCCI. But the Central Government has been granting concessions in Income tax, customs duty, etc. to BCCI. The State Governments also have provided land in many places to the Cricket Associations.

As per the Section 80(G) 92) (viii) (c) and sum paid by the assesses, being a company, in the previous year as donations to the Indian Olympic Association or to any other association or institutions established in India, as the Central Government may, having regard to the prescribed guidelines, by notifications in the officials gazette specify in this behalf for (i) the development of infrastructure for sports and games; (ii) the sponsorship of sports and games. For being eligible under the above Act BCCI was registered under Section 12 (a) read with Section 17 (a) as an charitable institution and was availing tax exemptions. Department of Revenue has informed that the registration granted to BCCI under section 12A of the Act was withdrawn in December 2009 with effect from 1 June, 2006. As such BCCI has availed tax exemptions as a charitable organization till 30.06.2006 as per details given below:-

S. No.	Annual year	Amount of exemption
1.	1997-1998	Rs. 11,01,44,329/-
2.	1998-1999	Rs. 1,818,20,87,740/-

3.	1999-2000	Rs. 8,37,14,734/-
4.	2000-2001	Rs. 36,01,22,999/-
5.	2001-2002	Rs. 42,98,07,762/-
6.	2002-2003	Rs. 31,46,41,089/-
7.	2003-2004	Rs. 26,28,78,110/-
8.	2004-2005	Rs. 33,46,89,451/-
9.	2005-2006	Rs. 32,99,98,557/-
10.	2006-2007	Rs. 127,51,52,718/-

From 2007-2008 onwards assessee's registrations under section 12A of the Act has been withdrawn and assessed income has also been indicated as under:-

S. No.	Annual Year	Assessed Income	Demand
1.	2007-2008	Rs. 274,86,30,510/-	Rs. 118,03,75,711/-
2.	2008-2009	Rs. 608,30,07,010/-	Rs. 257,12,20,954/-

Further, Ministry of Finance (Deptt. of Revenue) has informed that no specific exemption of Customs, Central Excise duty and Service Tax has been extended to BCCI in the last three years and the current year, except an exemption for temporary import of specified sports, medical, photographic, broadcast and office equipment for the purpose of organizing the International Cricket Council World Cup 2011 as per Notification No. 07/11-Customs, dated 9.2.11.

7. It is clear that the BCCI was enjoying tax exemptions up to Thousands Crore of Rupees as mentioned above. This answer also shows that the Government of India categorically decided to make the BCCI a public authority. Assuming that no financial assistance is rendered by the Government of India to BCCI, it has been treating BCCI as a National Sports Federation and approving the proposal of BCCI for holding the events in India and participation in International events abroad. This is the clear grant of monopoly to BCCI over the Cricket in India. This is the key grant that facilitates the BCCI to make very huge income.

8. The order of CIC in CIC/MOYAS/A/2017/116693 on 9.6.2017 elaborately explained the need for making BCCI a public authority. The questions raised and answered in that order are:

- I. Whether BCCI a National Sports Federation?** Answer: *The BCCI is a National Sports Federation for Cricket in India.*
- II. Whether BCCI is selecting team India on its own without any approval of Government of India?** Answer: *The BCCI has tacit recognition or approval/ sanction from Government for selecting the Indian Team which gave it complete monopoly with deep and all pervasive control over the sport of Cricket in India.*
- III. Whether the BCCI is a public functionary?** Answer: *The BCCI is a public functionary, as endorsed by the apex court in different judgments, more so in 2015 and 2016 in BCCI v Cricket Association of Bihar.*
- IV. How to make BCCI functionally transparent?** Answer: *All the points discussed above answers the fourth question. The measures suggested by the Justice Lodha Committee and the Supreme Court should be followed soon to make the BCCI functionally transparent, the Committee of Administrators and BCCI's CEO have to make maximum disclosures on their official website to facilitate the public scrutiny of its functioning. The Ministry of Youth and Sports has to coordinate with other agencies and implement the judgment of the Supreme Court to make BCCI answerable and accountable under the Right to Information Act. The Law Commission is expected to guide the Government of India to on the recommendation of Supreme Court, to fulfil the formality of declaring the BCCI as public authority under RTI Act.*

9. In 2016 in **BCCI vs. Cricket Association of Bihar and Ors.**, the SC bench of T.S. Thakur, Fakkir Mohamed Ibrahim Kalifulla, JJ on July 18, 2016, (<https://indiankanoon.org/doc/101366341>) observed: **"The BCCI has not embraced the modern principles of open governance, which is all the more necessary when discharging such far reaching public functions. The Working Committee consists entirely of representatives of the Full Members, thereby making it's functioning a closed-door affair with no representation of players or audit experts to act as checks on governance"**. It also advised to regulate affairs to prevent 'conflict of interest'".

The Lodha Committee has opined that people of the country have a right to know the details about the functions of the BCCI and its activities and recommends to the legislature to bring BCCI within the purview of the RTI Act as a public authority.

10. Apex court quoted with approval: "In the light of all this, the Committee proposes that clear principles of transparency be laid down, and the BCCI website and office will carry all rules, regulations and office orders of the BCCI, the constitution of the various committees, their resolutions, the expenditures under various heads, the reports of the Ombudsman/Auditor/Electoral Officer/Ethics Officer and the annual reports and balance sheets. In addition, norms and procedures shall be laid down for the engagement of service professionals and contractors, and there shall be full transparency of all tenders floated and bids invited by or on behalf of the BCCI. The website shall also have links to the various stadia with seating capacities and transparent direct ticketing facilities.

11. Apex court referred with approval the recommendation of the BCCI being under the purview of Right to Information Act and for carrying out a suitable amendment to this effect. Committee recommended **Citizens Charter** by BCCI: "The Right to Information Act, 2005 ('RTI Act') enacts that public authorities shall make known the particulars of the facilities available to citizens. The Lodha Committee said: Having regard to the emphasis laid by the Hon'ble Supreme Court that BCCI discharges public functions and also the Court's reference to **indirect approval of the Central and State Governments in activities which has created a monopoly in the hands of the BCCI over cricket, the Committee feels that the people of the country have a right to know the details about the BCCI's functions and activities. It is therefore recommended by apex court that the legislature must seriously consider bringing BCCI within the purview of the RTI Act.**"

12. The Supreme Court reiterated this saying "since BCCI discharges public functions and since those functions are in the nature of a monopoly in the hands of the BCCI with tacit State Government and Central Government approvals, the public at large has a right to know and demand information as to the activities and functions of the BCCI especially when it deals with funds collected in relation

to those activities as a trustee of wherein the beneficiary happens to be the people of this country. **As a possible first step in the direction in bringing BCCI under purview of Right to Information Act, we expect the Law Commission of India to examine the issue and make a suitable recommendation to the Government”.**



13. The logo of BCCI derived from the emblem of the Order of the Star of India, symbol used by the British Raj. India gained Independence from British Raj, but Indian Cricket is yet to be relieved from logo designed by and reflecting British Raj. **Why BCCI has in its logo a British Star, why not Ashoka's Chakra or four lions, why 'Satyameva Jayathe' is not the motto of BCCI?**



14. **Whether our team is Indian or British Indian?** Symbol of BCCI is similar to the representation of the star of the order on the mantle of British Raj (see left). After First War of Indian Independence in 1857, to consolidate its sovereignty over India, British Crown created a new order of knighthood to honour loyal Indian Princes. No such honours were given after 1948. Did anybody notice that the BCCI is still hanging on to this colonial legacy, 'symbolically', & our team flags this logo even today.

15. Out of these contentions and orders following issues are raised:

- a) Why the Indian Cricket team even now carrying the logo of BCCI instead of sporting the Union of India symbol? Why the BCCI is still using the logo designed by British Raj in 1928 which resembles 90 per cent the symbol of star of India given by British Raj to his loyal princes, as mentioned in the order of CIC in CIC/MOYAS/A/2017/116693 on 9.6.2017? Why the Government of India does not change it to truly Indian Symbol with either tricolor or four lions or Ashoka's Dharm Chakra or any other logo decided by the Government of India?
- b) Why the Government of India, PMO or the MoYAS not taken any measures to implement its declaration that the BCCI as public authority under RTI Act, as per its answer to Loksabha referred above?

- c) Why are not they bringing a uniform policy for rewarding winning international sports persons to prevent unhealthy competition for publicity among Governments?
- d) Why the sports frauds like match fixing and betting are not prohibited and action was not being taken effectively?
- e) What is the status of action on the Bill to prevent sports frauds?

16. The complainant requested the Commission to consider this as his appeal and sought answers to the above questions. The Commission directs the PMO, Ministry of Law and the Ministry of Youth Affairs and Sports to explain their stand on the above questions, which are supposed to have been answered as part of their obligation under Section 4(1)(b) of RTI Act, more importantly it has to answer the Supreme Court, Lodha Committee and the appellant why RTI is not being implemented by BCCI, if it is recognized as National Sports Federation, within 30 days from the date of receipt of this order.

17. As suggested by the complainant, the Commission recommends that the Government of India may consider shifting the subject of sports from States List in the Constitution of India to the Concurrent List to facilitate a uniform policy and law on the sports bodies, National Sports Federations including BCCI to be accountable, answerable as public authorities under RTI Act.

(M. Sridhar Acharyulu)
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)
Deputy Registrar

Copy of decision given to the parties free of cost.

Addresses of the parties:

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3. The CPIO under RTI Act
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4. The CPIO under RTI Act
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