



Sports law in India - lex sportiva: A new statutory chapter

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Abstract

The emergence of sports law is new India. The people often wonder by hearing the term 'Sports law'. In this article, we will focus on what is Sports Law? What circumstances led to need of sports law in India? What is the structural function of the different sports authority regulating different kinds of sports? What are the steps taken by the government to regulate sport and the stand of court for cleanness of sports as the country like India where sports is like 'religion' which is need to be protected and people can have faith in what they believe because sports need to be protected in its real sense as it is been dragged in mud due to some greedy people who see sports as opportunity for making money. Sports federation is having monopoly over all the decisions related to sports activity, sportsperson and so on, there is no role of government which is urgent need of the hour.

Keywords: sports, sports law, sports authority

1. Introduction

Sports, games and physical fitness have been a indispensable part of our civilisation, as is evident from the existence of the highly evolved system of yoga and a vast range of highly developed indigenous games, including martial arts. The intrinsic linkage between sports and games and the human quest for excellence was recognised ever since the inception of human civilisation, reaching its epitome in the ancient Greek civilisation, which was the progenitor of the Olympic movement. As stated in the Olympic Charter, Olympism is a "philosophy of life, exalting and combining in a balanced whole the qualities of body, will and mind"^[1].

Earlier sports use to be the source of entertainment and personal recreation but, with passage of time sports have grown into a highly competitive industry with global pervasiveness as now it involves money, glamorous world, instant recognition worldwide. It is one of the largest revenue generating industries in the world comprising 3% of the world trade. It has also metamorphosed into an important and inevitable political and social activity^[2].

2. Sports Law: Lex Sportiva

Sports law is one of those fields of law that is applied in the field of sports, physical education and its related areas. It is a pure law as opposed to theoretical law and is concerned with how law in general interacts with the activity known as Sports^[3].

Sports law means the law governing all the sports, at professional and at an amateur level.

Lex Sportiva according to Beloff* has three main elements

- it has transnational norms generated by the rules and practices of international sporting federations,
- it has unique jurisprudence, with legal principles that are different from those of national courts, and which is

declared by the Court of Arbitration for Sports, and

- it is constitutionally autonomous from national law

Bel off says that the foundation principle, the 'cornerstone' of lex sportiva, is to allow 'autonomy for decision making bodies in sport' and to establish a 'constitutional equilibrium' between courts and sports federations^[4].

3. Sports Law in India

In Constitution of India, sport is a State function in India in terms of Entry 33 of List II of the Seventh Schedule which reads thus:

"33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements."

One of the most challenging task while making sports reform at national level is constitutional Entry 33 in List II, which puts sports within the ambit of the state legislature.

In the field of sports, the club is the basic unit at the ground level^[5]. At the top of the hierarchy there are international sports bodies for each sports made up of national bodies of different countries^[6]. The national sports bodies again consist of the provincial or state bodies of different countries. The provincial state bodies comprise the different districts or clubs^[7].

In India, national as well as provincial sports bodies, clubs, associations or societies are generally set up under the law of societies. These are autonomous non-profit making private bodies^[8].

In India, national sports bodies field the national team representing the country for participation in international competitions where good performance is a matter of pride for the entire nation^[9]. They consider the players for participation and selection^[10]. These bodies also give telecasting and broadcasting rights to the successful bidder for hefty sums and

also earn revenues from advertisement in sports events ^[11]. They also take disciplinary action against the erring players including debarring them from the game. These bodies control even domestic matches or games within the country ^[12].

Table 1^[13]: The names of different recognised sports federation are mentioned as under

S. No.	Name of Sports Federation	Sports	Founded on
1.	Indian Hockey Federation	Hockey	1928
2.	All India Chess Federation	Chess	1951
3.	Board of Control for Cricket in India	Cricket	1928
4.	All India Tennis Association	Tennis	1920
5.	Amateur Kabaddi Federation of India	Kabaddi	1973
6.	Wrestling Federation of India	Wrestling	1948

The sudden need for a stringent law in sports is felt due to scandals and controversies in past years. The Olympic games bidding scam, the IPL match fixing, spot fixing and betting case in 2013, FIFA Scandal, sexual harassment case in women's hockey team ^[14], not proper mechanism of selection of players, involvement of politician directly or indirectly in sports federations, different sports federations not come within the ambit of public authority which gives arbitrary powers to the sports federation to function according to their will, not providing funds to small states for their development and regional players. The sports federation of tenly accused for not giving voting rights, funds to the small and backward states and only confining themselves to the big cities which will help them to make money for their "investments", organizational issues, employment issues, sports injuries with regard to the issues of liability, the use of prohibited performance enhancing drugs in sports which led to four-year ban by the World Anti-Doping Agency to Wrestler Narsingh Yadav in 2016 ^[15], lack of accountability.

Court of Arbitration for Sports (CAS)

Any dispute regarding any sport is being taken up by the Court of Arbitration for Sport (CAS) which is an international quasi-judicial body which is established at Switzerland as an headquarter and the courts at Switzerland, New York and Sydney to settle disputes related to sport through arbitration. Generally, a dispute may be submitted to the CAS only if there is an arbitration agreement between the parties which specifies recourse to the CAS. However, according to rule 61 of the Olympic Charter, all disputes in connection with the Olympic Games can only be submitted to CAS, and all Olympic International Federations (IF) have recognised the jurisdiction of CAS for at least some disputes. Through compliance with the 2009 World Anti-Doping Code, all signatories, including all Olympic International Federations and National Olympic Committees, have recognised the jurisdiction of CAS for anti-doping rule violations ^[16].

These kind of problem is arised due to lack of sports law. In India there is no law in the country governing sports, it is being governed by the rules made by the sports federation. It is very surprising that India lack this type of legislation where a hefty sum of money is being earned by the sports federations.

In India, the sport issue is under various law such as Laws of Contract, Intellectual Property Laws, Competition Law,

Labour Law, Torts, The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 etc. Due to these scandals, controversies and ambiguity with respect to sports law, the Central Government has put forward a bill known as National Sports Development Bill, 2013 ^[17] waiting to be turned into legislation.

4. Conclusion

Sport is soul of India. This soul need to protected and let it to be pure. It's high for Central government and State Government to make legislation to ensure accountability and transparency of different sports federations, declare them public body so that it can come within the ambit of The Right to Information Act, make sports federation under the authority and supervision of government, to make aware people aware about "Sports Law" as major population has no knowledge of this subject. Also, there is no law school in India consist of a subject of sports law in its curriculum and there is no specialization course which can lead to the emergence of potential sports lawyer. Moreover, there are very few sports lawyers and sports focused law firms which deal in such aspects. So, there is urgent need for law students, lawyers, judges, and other people from legal fraternity to enhance their knowledge about this new subject so that we can help legislature to address the issues related to sports more effectively and efficiently. In India, there are various certificate, diploma and degree courses related to physical education which is been regulated by University Grant Commission likewise sports federation need a regulatory and supervisory authority over them.

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