

Evolution and need for sports law in India with regards to current judicial trends

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Abstract

A sport is a physical activity carried out under an agreed set of rules, with recreational purposes: for competition or self-enjoyment or a combination of these. A game is a recreational activity involving one or more players, defined by a goal that the players try to reach, and some set of rules to play it. But with the increase in competition the need to regulate such activities was also realised. Therefore the need for laws that regulate sports and the complexities that go with it were developed. Sports law is the field of law that applies to the persons who are involved in the field of sports. It touches a variety of Laws including contract, tort, agency, antitrust, constitutional, labour, trademark, Sex Discrimination, criminal, and tax issues etc. some laws are dependent on the status of the athlete and some laws differ according to the sport. There are a large number of issues such as monopoly amongst the office bearers, lack of equipment facilities, corruption, doping, match Fixing etc. The present paper is inclined to discuss all such aspects of sports law in Indian context in 3 parts, firstly the evolution of sports law, secondly the need of sports law which would discuss all issues that are prevalent in the present times and thirdly the current judicial trends with regards to Sports law.

Keywords: physical, Recreational, Discrimination, Facilities, corruption

1. Introduction

Sports law is the field of law that applies to the sports persons who are involved in the field of sports. It touches a variety of Laws including contract, tort, agency, antitrust, constitutional, labour, trademark, Sex Discrimination, criminal, and tax issues etc. some laws are dependent on the status of the athlete and some laws differ according to the sport. The traditional view is that sports law represents nothing more than an amalgamation of various substantive areas of the law that are relevant in the sports context. According to this perspective, the term sports law is a misnomer given that sport represents a form of activity and entertainment that is governed by the legal system in its entirety¹ Sport has the ability to pit one against the other but at the same time unite everyone in that unequivocal thirst for a good game a fair game. While sport is often confused with game which is just another recreational activity, there are some fine differences between the two. For starters, a sport involves a greater degree of professionalism and a lot more is at stake in sport as opposed to a game one might play in their backyard as well. A sport is a physical activity carried out under an agreed set of rules, with recreational purposes: for competition or self-enjoyment or a combination of these. A game is a recreational activity involving one or more players, defined by a goal that the players try to reach, and some set of rules to play it. Games are played primarily for entertainment or enjoyment. The difference of purpose differentiates sport from game, combined with the notion of individual (or Team) skill or prowess^[1].

Sports law has an unusually well-developed pattern of globalized regulation and overlaps substantially with labour law, contract law, criminal law, public law, administrative law, antitrust law, competition law, intellectual property

rights law, law of tort, media law, company law, human rights law etc. These laws have been applied to sporting context involving public order, drugs, safety, disciplinary measures, conduct and wider issues relating to restraint of trade, anti-competitive behaviour, match fixing and the commercial exploitation of sports. Issues like defamation and privacy rights are also an integral aspect of sports law.^[2]

Research Problem

Evolution and need for Sports Law in India with regards to current Judicial Trends.

Objectives

To achieve an understanding by way of Doctrinal Research Methodology the Evolution and Need for Sports Law in India with regards to current Judicial Trends.

Review of Literature

1.1 History

The history of sports extends as far back as the existence of people as purposive, sportive and active beings. It also shows how society has changed its beliefs and therefore how changes in the rules are brought. The history of sports in India dates back to the Vedic era. Polo, archery and hockey are some of the games believed to have originated in India. In India, history of sports can be traced back to the epic of Mahabharata which narrates an incidence where a game called Chaturang was played between two groups of warring cousins Pandavas and Kauravas. Sports have been treated as important aspect of human development. A famous saying goes "all work and no play makes jack a dull boy." Sport has traditionally seen itself as a private social

¹ Paul C. Weiler & Gary R. Roberts, Sports and the Law (1993)

² Gaurang Kanth "Emergence of Sports Law in India" volume3:issue-2,ILJ(2007)

activity separate from the reach of legal frameworks. As Foster explains, 'legal norms are fixed rules which prescribe rights and duties; relationships within the social world of sport are not seen in this way' [3]

The modern game of badminton has developed from an old children's game known in England as battledore and shuttlecock, a game popular in ancient India. The battledore was a paddle and the shuttlecock a small feathered cork, now usually called a "bird" [4].

Games like chess and snakes and ladders originated from the ancient Indian games *chaturanga* and *gyan chauper* [5]. Respectively; these were later transmitted to foreign countries, where they were further modernized [6].

During the rule of the Mughal Empire, a form of wrestling known as *pehlwani* developed, by combining native *malla-yuddha* with influences from Persian *varzesh-e bastani* [7].

In India sports figures in the State list of the Seventh Schedule (entry 33) of the Constitution. But now little importance is left of sports as somewhere it lacks enthusiasm. The schools on the grassroots level though indulge children in physical activities but their main emphasis is on Academics. Also there are various federations that provide sports facilities but apart from cricket the Indian sports Structure is failing at many major international events. The reasons may be either the lack of Uniform Regulations of Sports in India or the lack of sports facilities to the sports persons or the amount of corruption that exists at all levels in such federation. There is a need for a legislation that governs sports and brings the various authorities into one roof so that their conduct and administration can be regulated which will lead to a better outcome on international platform.

1.2 Organization of Sports in India

In sports the top of the hierarchy are the International bodies which affiliate national bodies in different countries. Those national state bodies are in turn consist of state bodies and they comprise of different districts or clubs. The National sports bodies prepare the national team that will represent the country in the international competitions. They consider the players for participation and selection. These bodies also award telecasting and broadcasting rights to the successful bidder for hefty sums and also earn revenues from advertisement in sports events. They also take disciplinary action against the erring players including debarring them from the game. Accordingly in the most countries including India, for enforcement of their public duties and obligations prerogative Constitutional Writs of High Courts lie against these private bodies like any public or Government Authority [8].

1.3 Sports Legislations in India

India does not have a National or State legislation for the regulation of sports. The Ministry of Youth Affairs & Sports was set up by the Govt. of India to create the infrastructure and promote capacity building for broad-basing sports as well as for achieving excellence in various competitive events at the national and international levels. Also the promotion of sports is the primary responsibility of National Sports Federation's (NSFs) which are autonomous in nature. Guidelines and Notification are issued by the Ministry of Sports and Youth Affairs from time to time for the regulation of such NSFs. There are Scholarships also provided by the state to promote the development of the sport and encourage the enthusiasm of sportspersons.

The Sports Law in India is governed and regulated by:

- National Sports Policy, 2001
- Sports Law and Welfare Association of India
- Sports Authority of India
- The Sports Broadcasting Law in India.
- Indian Olympic Association
- National Sports Development Code, 2011
- Court of Arbitration for Sports as A Dispute Resolution Body CAS &TAS
- National Dope Testing Lab

1.3.1 National Sports Policy, 1984/2001

A Resolution on the National Sports Policy was laid in both Houses of Parliament in August, 1984. The National Sports Policy, 1984 was formulated with the objective of raising the standard of Sports in the country. The National Sports Policy, 1984 provided inter-alia that the progress made in its implementation would be reviewed every five years to determine the further course of action, as may be necessary, following such review. Over the years, it has transpired that even as the National Sports Policy, 1984 encompasses various facets in respect of encouraging sports in the country, the implementation of the same is not complete. In order to reformulate the National Sports Policy 1984, National Sports Policy 2001, was drafted the objective of the guidelines of National Sports Policy 2001 is three-fold:

Firstly to define the areas of responsibility of the various agencies involved in the promotion and development of sports,

- Secondly, to identify National Sports Federations eligible for coverage under these guidelines, to set priorities, and to detail the procedures to be followed by the Federations, to avail of Government sponsorship and assistance.
- Thirdly, to state the conditions for eligibility which the Government will insist upon while releasing grants to Sports Federations.

In accordance with the provisions of the National Sports Policy, 2001, the Central Government pursues the objectives of "Broad-basing" of Sports and "Achieving Excellence in Sports at the National and International levels" in a combined effort with the State Government, the Olympic Association and the National Sports Federation. The Government of India and the Sports Authority of India, in association with the Indian Olympic Association and the National Sports Federations, are expected to focus specific attention on the objective of achieving excellence at the National and International levels. The National Sports

³ Chess originated in ancient India and was known as Chatur-Anga - Meaning 4 bodied, as it was played by 4 players. From this name we have its current name Shatranj

⁴ Chisholm, Hugh (1911). "Battledore and Shuttlecock". Encyclopædia Britannica. p. 534.

⁵ Singh, Shiv Sahay (13 April 2018). "From board to phone, India's ancient games are being reinvented as apps". *The Hindu*

⁶ Jain, Niklesh Kumar (5 March 2014). "Hindi and the origins of chess". *Chess Base*. Archived from the original on 8 March 2014.

⁷ Alter, Joseph S. (1992). *The Wrestler's Body: Identity and Ideology in North India*. Berkeley: University of California Press. ISBN 0-520-076974.

⁸ .Indian Olympic Association Vs Veeresh Malik and Ors ,MANU/DE/0108/2010

Policy aims to pursue inclusion of “Sports” in the Concurrent List of the Constitution of India and introduction of appropriate legislation for guiding all matters involving national and inter-state jurisdiction ^[9].

1.3.2 Sports Law and Welfare Association of India

The Sports Law and Welfare Association of India is a national non-profit and professional organization which work with the common goal of understanding, advancement, and ethical practice of Sports Law in India for the promotion of Sports, by bringing Legal Practitioners and Sports persons together. The Association provides consultancy on various matters including regulation of sports governing bodies, general sport and law issues, intellectual property issues in sport, online advocating in legal disputes of sports in court on behalf of sports persons and sports bodies, etc. The Sports Law and Welfare Association of India aims to further the discussion of legal problems affecting sports and to promote the exchange of a variety of perspectives and positions of sports law and provide a forum for lawyers representing athletes, teams, leagues, conferences, civic recreational programs, educational institutions and other organizations involved in professional, collegiate, Olympic, physical education and amateur sports.

Aims of Sports Law and Welfare Association of India are

- To provide Educational Opportunities and disseminate data and information regarding specific areas of sports law
- To provide a forum for lawyers representing Athletes, Teams, Leagues, Conferences, Civic Recreational Programs, Educational Institutions and other Organizations involved in Professional, Collegiate, Olympic, Physical Education and Amateur Sports. SLAWIN's role is to foster the discussion of legal problems affecting sports and to promote the exchange of a variety of perspectives and positions of sports law
- To promote and, where necessary, establish rules of ethics for sports persons and practicing professional of law, its members involved in sports law
- To produce high quality research in the field of sport and the law
- To publish widely and disseminate research findings
- To provide up to date information on current sports law issues including a resource of sports law material
- To provide consultancy to sportsmen and sports bodies concerning sports law issues
- To promote undergraduate and postgraduate study, research and continuing education in sports law
- To promote ethical solutions to legal issues in sport and notions of "Fair-Play"
- To positively address all issues of discrimination in sport ^[10].

1.3.3 Sports Authority of India (Sai)

The Sports Authority of India was established to fulfil the need of an apex body to coordinate various sports activities in India. The success of the IXth Asian Games at Delhi has raised sports consciousness and enthusiasm in India which

in turn, motivated the Government of India to focus on sports development to encourage physical fitness among youth and to direct their energy towards excellence. The Sports Authority of India has gradually, extended its operations to promote broad base sports. The other thrust areas of SAI include provision of strengthening of inputs for excellence and various supportive programmes, such as Academic Programmes, Coaching and Physical Education Awareness Programmes and Scholarship Schemes as incentives to sportspersons. The Sports Authority of India operates various Schemes at sub-junior, junior and senior level and endeavours to broad base sports and develop excellence by upgrading the skills of Indian sports persons.

- Talent Scouting at micro level & nurturing talent towards excellence\
- Training & International Exposure
- Support Training with Scientific & Sports Equipment and scientific personnel
- Monitor and enhance Performance with a scientific evaluation system
- Training and preparation of National teams
- Sports Infrastructure Development & Maintenance
- Maintenance and up gradation of 4 stadia complexes and a shooting range in Delhi
- To produce coaches and physical educationists of high calibre in different disciplines of sports to broad base sports ^[11].

1.3.4 The Sports Broadcasting Law In India

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 ^[12]. Was passed in 2007 with an objective to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for matters connected therewith or incidental thereto. The Act provides that any content right owner or holder television or radio broadcasting service provider shall not carry a live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast in India of sporting events of national importance, unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified.

1.3.5 Indian Olympic Association (The Ioa Is a Registered Society)

The apex Sports Organization of Olympic Sport in the country is responsible for the Indian contingent's participation in the Olympic Games, Commonwealth Games, Asian Games (Outdoor-Indoor-Beach) and South Asian Games. Each Olympic and Non-Olympic Sport has a Federation at the National level and are affiliated/recognized to/ by IOA. Ministry of Youth Affairs & Sports recognise every year the national sports federations attached with Indian Olympic associations

Indian Olympic association is a ‘public authority under right

⁹ National Sports Policy ,2001

¹⁰ <https://www.sportslawindia.info/> (visited on June 15, 2020)

¹¹ https://sportsauthorityofindia.nic.in/index1.asp?ls_id=91(visited on June 15, 2020)

¹² <http://legislative.gov.in/sites/default/files/A2007-11.pdf>(visited on June 15, 2020)

to information act 2005 ^[13].

National Olympic Committees (NOCS) is to ensure that athletes from their respective nations attend the Olympic Games. Only a NOC is able to select and send teams and competitors for participation in the Olympic Games.

In terms of Olympic-Charter, IOA has the exclusive powers for the representation of India at the Olympic Games and at the regional, continental or multi-sports competitions patronized by the IOC. In other words, the main function of IOA is to act as the nodal agency for the participation of Indian sports contingents in various international sports events. Then IOA also claims to be the apex of all National level sports federations; it represents the national face of the IOC. It has the power to affiliate or recognize other domestic sports federations, which in turn can select and sponsor sportsmen to represent the country in games and events. Government of India Allocation of Business Rules 1961, the Indian Olympic Association and National Sports Federations have been specifically listed as an item of Business allocated to Ministry of Youth Affairs & Sports. For these reasons, it is contended that the IOA is a public authority.

1.3.6 National Sports Development Code 2011 ^[14]

The various orders/ circulars issued by the Government from time to time are amalgamated under this National Sports Development Code of India, 2011. In the recent past Government has taken various steps to further improve the management of NSFs and sports in the country such as notification of the Anti-Doping Code; introduction of annual recognition of NSFs to ensure transparency and accountability of NSFs; enforcement of age and tenure limit in respect of office bearers of NSFs, including the Indian Olympic Association; bringing NSFs under the purview of Right to Information Act; measures to ensure free, fair and transparent elections by the NSFs; and measures to combat age fraud in sports; and guidelines for the prevention of sexual harassment of women in sports.

The basic objectives are:

Firstly to define the areas of responsibility of the various agencies involved in the promotion and development of sports. Secondly, to identify NSFs eligible for coverage under these guidelines, to set priorities, and to detail the procedures to be followed by the Federations, to avail of Government sponsorship and assistance.

Thirdly, to state the conditions for eligibility to receive government recognition and grant.

1.3.7 Court of Arbitration for Sports as a Dispute Resolution Body CAS & Tas

The CAS Statute of 1984 was accompanied by a set of procedural Regulations. Both were modified slightly in 1990. Under these rules, the CAS was composed of 60 members appointed by the IOC, the International Federations (IF), the National Olympic Committees (NOC) and the IOC President (15 members each).

Object: With the aim of facilitating the resolution of disputes in the field of sport, an arbitration institution

entitled the “Court of Arbitration for Sport” (hereinafter the CAS) has been created, and that, with the aim of ensuring the protection of the rights of the parties before the CAS and the absolute independence of this institution, the parties have decided by mutual agreement to create a Foundation for international sports-related arbitration, called the “International Council of Arbitration for Sport” (hereinafter the ICAS), under the aegis of which the CAS will henceforth be placed.

1.3.8 National Dope Testing Lab (Under Youth Ministry)

National Dope Testing Laboratory (NDTL) is responsible for analytical testing of samples and research in the field of dope analysis was registered in 2008. The lab was modernized in 2002 with an aim to get it permanently accredited by International Olympic Commission and WADA ^[15].

2. Need for Sports Law

Despite of the above legislations there are many issues related to sports law in India

There have been many scandals and controversies surrounding this field since the past few decades such as the Olympic Games Bidding Scandal, the IPL scam and the allegations of sexual harassment by the Indian Women’s Hockey Team have startled the nation. And these are some of the scandals that come to light, there are many that go unheard due to the reason of no particular legislation or governing authority that regulates the working of such sports institutions. From six gold medals in a row from 1928 to 1956, the Indian Hockey team hit an all-time low failing to qualify for the 2008 Olympics. This incident exposed the maladministration and insularity of a defective system that drained our resources.

Even in cricket practices like match fixing and payment by bookies takes place which deteriorates the spirit of the sport. The major harms that the sporting world faces can be broadly categorized as follows:

2.1 Labour Issues

Players and owners have to negotiate mandatory issues relating to hours, wages and working conditions. The agents entrusted to conduct business on player’s behalf should be working as per well laid out norms that serve the best interests of the game.

2.2 Drug Use

The problem of performance enhancing drugs a major problem that needs to be addressed. Drug testing, list of banned drugs, penalties, privacy issues and right to appeal must be clearly stated by the nodal agency concerned.

2.3 Tort Laws

Tort Laws were once not a part of the landscape of sports laws. But intentional tort pointing to a criminal act of assault needs to be penalized. Similarly right to publicity has to deal with the defamation of a person’s character and reputation.

2.4 Laws on Accountability

There is a need to check corruption and ensure the truthfulness in the working of the government bodies and

¹³ Indian Olympic Association vs Veeresh Malik & Ors. (DLH)-2010-1-331

¹⁴ <https://yas.nic.in/sites/default/files/File918.compressed.pdf> (visited on June 15, 2020)

¹⁵ <https://advocatetanmoy.com/2017/05/07/sports-law-in-india/> (visited on June 15, 2020)

other sports agencies. There is a huge problem related to tenure restrictions as the office bearers of the federation tend to exploit their position of power due to their prolonged employment and monopoly in the federation. Also there is a denial of facilities on the part of the office bearers because of their dominant nature in handling affairs of the administration which consequently leads to poor results. A number of other factors have made sports law necessary: Disputes in sports, weather related to injuries, finances or governance, Monopoly of sports federations and a strict hierarchy comprising entirely of people with vested interests, Exploitation of players (sexual and otherwise) The problem of doping Violence in sports as well as conduct during tournaments in stadia etc. Intellectual property rights issues like broadcasting and webcasting of sports events, laws being misused by sportspersons ^[16].

2.5 Ungoverned Authorities

There are different Sports bodies, for example, the Board of Cricket Control India for Cricket, the Indian Hockey Federation for Hockey, the All India Football Federation for Football, the Indian Netball Federation for Netball, the Indian Basketball Association for Basketball, the All India Tennis Federation for the Tennis, and the Indian Olympic Association and the Sports Authority of India at the zenith. There is no focal sports authority other than the Ministry of Sports Affairs which externally administers these games bodies. Truth be told, there are instances where the financially sound sports authorities like BCCI have denied any intention to join the Ministry of Sports Affairs. This shows that the Sports authorities integrate themselves with the Ministry for monetary advantages alone. In *Zee Telefilms v Union of India* ^[17]. The Supreme Court touched upon this issue. It said that "the Sports bodies largely remain unaccountable to the state or any other central body inside the territory of India, which however should not be the case considering the importance of sports in the modern arena". Therefore there is a need for a legislation or an appropriate governing body to adjudicate upon the matters of concern which would eventually lead to the monopolisation of such authorities which enjoy autonomy and manage affairs as per their discretion ^[18].

2.6 Corruption – Betting and Match Fixing

The sports industry is majorly plagued by corruption in many forms. Betting, gambling, match fixing are some of the factors that lead to corruption in the system. Every sport, big or small has some extent of corruption where the ones in power or are in a dominant position are pulling strings of the competition. This has led to the deterioration of spirit of the sports and development of profit making industry that indirectly is regulating sports while defeating the main essence of having a sport and fair play as the final result gets already decided by the ones in power for their own.

3. Current Judicial Trends

3.1 Zee Telefilms Ltd. & Anr vs Union of India & Ors ^[19]

Mr. K.K. Venugopal, learned senior counsel appearing for the Board has raised the preliminary issue in regard to the maintainability of this petition on the ground that under Article 32, a petition is not maintainable against the Board since the same is not "State" within the meaning of Article 12 of the Constitution of India. It is this issue which is being considered in this judgment.

It was contended the Board is not created by any statute and is only registered under the Societies Registration Act 1860 and that it is an autonomous body, administration of which is not controlled by any other authority including Union of India, (U.O.I.) the first respondent herein. He further submitted that it also does not take any financial assistance from the Government nor is it subjected to any financial control by the Government or its accounts are subject to the scrutiny of the Government. It is his submission that though in the field of Cricket it enjoys a monopoly status the same is not conferred on the Board by any statute or by any order of the Government. It enjoys that monopoly status only by virtue of its first mover advantage and its continuance as the solitary player in the field of cricket control. He also submitted that there is no law which prohibits the coming into existence of any other parallel organisation.

This judgment of the Hon'ble Supreme Court is referred as Magna Carta of Indian Sports Law. The court in its majority judgment ruled that BCCI did not constitute State within the meaning of Article 12 of the Constitution. Although, in his minority opinion Justice Sinha opined that BCCI is State. Over the span of his judgment, he featured the significance of Sports in India with explicit reference to cricket. His minority opinion discussed that importance of the role played by the sports authorities in various jurisdictions, for example, United States of America, Australia, United Kingdom, Scotland and New Zealand. This is presumably the only ruling in India which has talked about the significance of games in such expound detail.

3.2 In 1991, the Supreme Court in the case of K. Murugan v. Fencing Association of India ^[20].

Jabalpur discussed the importance of sports in India. The issue under consideration was regarding election of members to the executive council of the Indian Olympic Association. The Supreme Court while expressing its hesitance to adjudicate upon the issue commented: "This does not appear to us to be a matter where individual rights in terms of the rules and regulations of the Society should engage our attention. Sports in modern times have been considered to be a matter of great importance to the community. International Sports has assumed greater importance and has been in the focus for over a few decades. In some of the recent Olympic Games, the performance of small States has indeed been excellent and laudable while the performance of a great country like India with world's second highest population has been miserable ^[21].

¹⁶ Dr. Sachin Deshmukh, Abhay Jadhav "Regulating sports and games in India: Need of a comprehensive legislation", Volume 3; Issue 1; January 2018

¹⁷ (2005)4SCC649

¹⁸ <https://advocatanmoy.com/2017/05/07/sports-law-in-india/> (visited on June 15, 2020)

¹⁹ (2005)4SCC649

²⁰ 1991 SCC (2) 412

²¹ <https://www.khuranaandkhurana.com/2019/01/04/importance-of-sports-law-in-india/> (visited on June 15, 2020)

3.3 In *Ajay Jadeja VS UOI Delhi High court* [22]. It is observed

"When the Government stands by and lets a body like BCCI assume the prerogative of being a sole representative of India for cricket by permitting BCCI to choose the team for India for appearance in events like the World Cup, then it necessarily imbues BCCI with the public functions at least in or far as the selection of the team to represent India and India's representation in International Cricket fora and regulation of Cricket in India is concerned. Thus the monopoly status of the BCCI is evident.

It is also clear that such monopoly status is indisputably state recognized as evident from the latest of Ministry of Culture, Youth Affairs a Sports dated 22nd December 2000 and indeed by acquiescence of the Government, can be considered state conferred. Similarly, the plea of the BCCI that it does not own or lease the stadia is of no consequence as the stadia are owned and leased by its members and it is not disputed that all international matches are played in such stadia. Similarly, membership of BCCI of the International Cricket Conference (ICC) cannot ipso facto imply that it is not amenable to writ jurisdiction.

In fact, BCCI represented India on this own showing and depending upon the nature of the action impugned, would be amenable to writ jurisdiction." We agree. BCCI, like everyone else, is amenable to writ jurisdiction. However, not every action of BCCI would be subject to the scrutiny of judicial review. Only those actions which fall within the ambit of public law would call for any direction, order or writ under Article 226. Disputes or acts in the sphere of pure private law having no traces of public law would not be the subject matter of writs, directions or order to be issued under Article 226.

3.4 In *Secretary, Ministry of Information & Broadcasting, Government of India and ors. Etc. V. Cricket Association of Bengal and ors. Etc.*

this Court held that: "...The right to telecast sporting event will therefore also include the right to educate and inform the present and the prospective sportsmen interested in the particular game and also to inform and entertain the lovers of the game: Hence, when a telecaster desires to telecast a sporting event it is incorrect to say that free speech element is absent from his right. The degree of the element will depend upon the character of the telecaster who claims the right. An organizer such as the BCCI or CAB in the present case which are indisputably devoted to the promotion of the game of cricket cannot be placed in the same scale as the business organizations whose only intention is to make as large a profit as can be made by telecasting the game...."

Critical Analysis

With regular increase in the number of sports-related disputes in the country, India requires an independent authority that specializes in sports-related problems and that is authorised to pronounce binding decisions. The disputes when referred to courts take a long time to come up with the final decision since the Indian courts are already piled up with a number of pending cases. There is a need to have an

Authority for sports that offers flexible, quick and inexpensive method of resolution of disputes.

With the inauguration of India's first arbitration centre in Delhi in 2009, India is recognizing the necessity of arbitration for quicker disposal of cases. The increasing use of arbitration in sport over the last decade has challenged the legal framework in which arbitration disputes are addressed in many jurisdictions [23].

Conclusion

Due to the increase in sports issues regarding legal documentation and contractual obligations there has been an inclination towards the need of a more concrete set of rules. India has reached a stage where there is a need of a proper regulation and legislation that deals with sports law. India's failure in many of the international sports events is an indicator of the poor infrastructure, facilities and corruption which exists in the federations. It is not that the sports persons in India are not capable enough to compete with that of the other countries, it is just the lack of stringent laws and proper infrastructure and facilities that lead up to such poor results. Therefore in the changing dynamics of the field of sports nationally as well as internationally there is an impending need to bring about a uniform code that is applicable to all?

Like India, USA and UK do not have a national legislation to regulate sports and the sports federations in the country. However, the enactment of legislations in all the three categories of sports law i.e. amateur, professional and international athletes of US gives protection to the interest of the sportsmen. The key issues faced by the Indian sports include:

- Inefficient or inappropriate deployment of funds
- Mistakes in management Non-accountability for results
- Prejudice in selection procedures for national teams
- Undemocratic or unethical electoral practices in sports bodies

▪ Monopoly of the office bearers and a lack of tenure caps. Thus India needs a national legislation for promotion, development and uniform regulation for sports in India. Sport figures in the State list of the Seventh Schedule (entry 33) of the Constitution. Though there was a proposal to include sports in Concurrent List over which both state as well as centre will be competent to make laws, however, the government has failed to do so. Further the government has failed to implement National Sports Policy of India even after its repeated attempts [24].

In absence of a specific enactment for the entire country, the National Sports Development Code, 2011 governs the conduct of the National Sports Federations in India. Even though sports form a part of Entry 33 of the State List, Seventh Schedule of the Constitution of India, the validity of the above-mentioned code has been upheld by the Delhi High Court in *Indian Olympic Association v. Union of India* [25]. There are two other draft Central bills i.e. the National Sports Development Bill, 2013 and the Prevention of Sporting Fraud Bill, 2013, which if promulgated would give further credence to the existence of sports law in India.

²³ <https://www.khuranaandkhurana.com/2019/01/04/importance-of-sports-law-in-india/> visited on June 15, 2020)

²⁴ https://www.indialawjournal.org/archives/volume3/issue_2/article_by_Gaurang.html visited on June 15, 2020)

²⁵ LAWS(DLH)-2014-5-318

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