

IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL
JURISDICTION

TRANSFER PETITION (CIVIL) NO. 975 OF 2020

INDIAN OLYMPIC ASSOCIATION ... PETITIONER(S) VERSUS
KERALA OLYMPIC ASSOCIATION & ORS. ..RESPONDENT(S)

ORDER

1. The Indian Olympic Association, which is registered as a Society under the Societies Registration Act and having its Registered Office in New Delhi, has come up with this petition seeking transfer of a writ petition in W.P.(C)No.2938 of 2020 filed by Respondent Nos. 13 herein on the file of the High Court of Kerala at Ernakulam.

2. I have heard Mr. D.N. Goburdhan, learned counsel for the petitioner, and Mr. V. Giri, learned senior counsel for Respondent Nos. 13.

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3. While the Indian Olympic Association, which is the petitioner herein is a Society registered under the Societies Registration Act, 1860, The Kerala Olympic Association which is the first respondent herein, is a Society registered under The TravancoreCochin Literary, Scientific and Charitable Societies Registration Act, 1955. But the first respondent is affiliated to the petitioner Association.

4. It appears that the election of office bearers to the Kerala Olympic Association (1st respondent herein), was held on 14.01.2019. The said election was conducted under the supervision of the High Court of Kerala in view of a couple of writ petitions filed therein.

5. On a complaint lodged by the 6th respondent herein, the Ethics Commission of the petitioner herein issued a notice dated 23.12.2019 to the 1st respondent proposing to conduct an inquiry with regard to the election held on 14.01.2019. This was purportedly on the basis of a memo filed in a civil suit.

6. Therefore, challenging the proceedings initiated by the Ethics Commission of the petitioner herein, the 1st respondent filed a writ petition in W.P.(C)No.2938 of 2020 on the file of the High Court of 2

Kerala at Ernakulam. The main contention of the 1st respondent in its writ petition was that the validity of the election of the office bearers to the 1st respondent Society, held under the supervision of the Kerala High Court, cannot be gone into by the Ethics Commission of the petitioner herein.

7. Contending that as per its own bylaws, which are binding upon the 1st respondent also, any proceeding against the petitioner Association could be filed only in a court within the jurisdiction of the Delhi High Court and that the said position has been made

clear by the decision of this Court in *K. Murugan vs. Fencing*

*Association of India, Jabalpur and Others*¹, the petitioner has come up with the above petition seeking transfer of the writ petition from the High Court of Kerala to the High Court of Delhi.

8. Mr. D.N. Goburdhan, learned counsel appearing for the petitioner invited my attention to Clauses 22.6, 28.8 and 31.3 of the Rules and Regulations of the Indian Olympic Association. Clause 22.6 reads as follows :

“**22.6** All matters in relation to breach of ethics shall be referred to the Ethics Commission of the IOA as per the regulations of the Ethics Commission.”

Clause 28.8 reads as follows:

“**28.8** The affiliated State Olympic Associations will abide by the Constitution of IOA.”

Clause 32.3 reads as follows:

“**31.3** The Association may sue or be sued in the

name of the Secretary General, IOA. A law suit can only be filed at New Delhi, the headquarters of I.O.A.”

9. On the basis of the above Clauses, it is contended by Mr. Goburdhan, learned counsel for the petitioner that any legal proceeding against the petitioner can be filed only at New Delhi and that all the affiliated State Olympic Associations are bound to abide by the Constitution of the Indian Olympic Association, prescribing such a stipulation.

10. The learned counsel for the petitioner also invited my attention to the decision of this Court in *K. Murugan* (supra), wherein this

Court issued a mandate that in the interest of the appropriate functioning of the Society, the litigation outside the headquarters of the Society

should not be permitted and that all litigation should be only within the jurisdiction of the Delhi High Court.

11. The learned counsel for the petitioner also relied upon the decision of this Court in *Arvee Industries and Others vs. Ratan*

*Lal Sharma*², wherein this Court held that if a particular suit is ex facie instituted deliberately in a wrong court, it will not have any bearing on the question of transfer. The learned counsel next relied

upon the decision in *M.P. Triathlon Association Through Its Secretary and Another vs. Indian Triathlon Federation And*

*Others*³, wherein this Court directed the Indian Olympic Association to follow a particular Rule which requires the members to voluntarily surrender their right of seeking redressal in any court of law.

12. I have carefully considered the submissions of the learned counsel for petitioner.

13. The primary contention of the petitioner is that in view of the Rules and Regulations of the petitioner Association and the law laid

down by this Court in *K. Murugan* (supra), the Kerala High Court did not have jurisdiction to entertain the Writ Petition. But the said contention appears to be flawed, at least prima facie, in the light of what had transpired in the past before the Kerala high court, to which my attention was drawn by Mr. V. Giri, learned senior

counsel appearing for the 1st respondent. However I refrain from deciding the question of jurisdiction here, as I am now concerned only with the question of transfer.

14. Suffice it to say that if a court has no jurisdiction to try a *lis*, it is good for the party raising the issue of jurisdiction to seek the dismissal/return of the proceedings, rather than seeking a transfer. I fail to understand the anxiety of the petitioner, to make an irregular proceeding initiated by the first respondent, regular. The

decision in *Arvee Industries* (supra) is no answer to this contention, since this Court did not say in that case that an invalid proceeding, may be validated, at the instance of the opposite party by transferring the same to a court having jurisdiction. Paragraph

13 of the decision in *Arvee Industries* (supra) is of significance. It reads as follows:

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“13.	It cannot be said that if a particular suit, is, ex
facie instituted deliberately in a wrong court, it will not	
have any bearing whatsoever, on the question of	
transfer. The court may bear it in mind as an	
additional factor if there is, prima facie, on the	
pleadings sufficient justification for such a plea.	It is,
however, not necessary for us to express finally on	
the question of jurisdiction in this case. That on	
the pleadings there is a strong possibility of the	
High Court accepting the petitioners' objection to	

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territorial jurisdiction is also a relevant factor in

the background of this case

.”

15. Therefore, the decision in *Arvee Industries* will not go to the

rescue of the petitioner. Similarly, the order in *M.P. Triathlon*

Association (supra) is of no assistance to the petitioner, as no proposition of law is laid down therein.

16. There is no dispute about the fact that the 1st respondent is also a Society registered independently under a different State enactment in Kerala. The present dispute pending on the file of the High Court of Kerala, relates to the election of office bearers to the 1st respondent Society and not the election of office bearers of the petitioner Association. Therefore, the 1st respondent can validly contend that any attempt by the petitioner to interfere with the internal affairs of the 1st respondent is amenable to the jurisdiction of the Kerala High Court.

17. As a matter of fact, there were proceedings before the Kerala High Court which resulted in the election being held on 14.01.2019 under the supervision of the Kerala High Court. At that time the petitioner did not think fit to come up with a Transfer petition.

Therefore, I see no justification for ordering the transfer.

New Delhi November 06, 2020

18. I have not pronounced any final opinion on the question of jurisdiction, though there are sufficient materials to come to a conclusion one way or the other. This is just to enable the petitioner to raise the issue of jurisdiction before the Kerala High Court and invite a finding thereon.

19. Therefore, in fine, the Transfer Petitioner is dismissed. It will be open to the petitioner to raise the issue of jurisdiction before the Kerala High Court, along with all other contentions on merits.