

Sports legislation in India: The need for a comprehensive Sports Law

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1. Introduction

For a long time, sports had been seen in India as merely a source of entertainment, and thus had never been an issue of importance for the policy makers and legislators. Today sport emerges as an important component of Socio-economic development of a country. The sports sector contributes to the economy in multiple ways: by providing employment and supplementing the economic output due to commercial sports activities, by increasing expected life span of the population, by helping to avoid healthcare costs of the government, and a number of other ways. With this changing scenario, it is important to find out whether the legislations in India are comprehensive with regards to the issues the world of sports brings.

Like United Kingdom, India also does not has a specific law dealing with sports, unlike a lot of other countries. Seventh schedule of the Constitution of India, Entry 33 under the State List provides for Sports, thus only states have been given the power to make laws regarding sports. In 2017 an effort was made by the central Government to move sports to concurrent list so that both the union and state legislatures can formulate laws relating to sports. But this reform is yet to see the light of day. Many states in the country such as Punjab, Kerala, Rajasthan, Haryana, Himachal Pradesh etc. have formulated their state-specific policy and sports law for regulating and promoting sports.

Internationally, sports operates in a self-regulating private eco-system. There are various International non-government organisations like the World Anti-Doping Agency, International Sports Federations, International Olympic Committee. These organisations play the pivotal role in organising and regulating International Sports events. In

the year 2005, The United Nations Educational, Scientific and Cultural Organization adopted the International Convention against doping in sports. It provided a legal framework to governments to deal with the menace of doping in sports by providing for policies, rules and guidelines, it also ensures the effective implementation of the world anti-doping Code.

2. Laws & entities dealing with sports in India

Unlike many other countries, India has never enacted a law dealing specifically with sports. In the absence of a specific law dealing with sports, various other laws apply to matters of international sports, professional sports and amateur sports such as contract law, employment laws, tax laws , competition law etc.

In India, sports law can be said to be a collection of policy decisions of the government and judicial decisions of the courts. Sports being listed as state subject under the constitution of India, comes up as a challenge while initiating reforms at national level as this takes away the locus standi of the central government to legislate on Sports.

2.1 Ministry of Youth Affairs & Sports

There is a Ministry of Youth Affairs & Sports functioning under the overall guidance of a Minister of State. In 2008, two separate Departments, namely, Department of Youth Affairs and Department of Sports, were formed under this Ministry. The primary purpose of this Ministry is to build infrastructure, provide facilities and opportunities to sportspersons and to improve performance of the country at International sports meets. From time to time various guidelines and notifications are issued by this ministry to regulate the functioning of the National Sports Federations.

2.2 Sports Federations

The various International Sports federations provide recognition to their respective National Sports Federations at national level, who further provide recognition to state sports federations at state level, who further provide recognition to district sports federations at district Level. These bodies which are self-regulating in nature and are registered as societies. These Federations enjoy autonomy and are not considered as “state” under Article 12 of the Constitution. But these federations have can and are subjected to the discipline of Fundamental rights provided by the Constitution of India. The respective federations are responsible for organising tournaments at district, state and national level, for team trials and selections and for organising training camps.

2.3 Sports Authority of India

In the year 1984 the Central Government established the Sports Authority of India (S.A.I). The main functions of the authority were to utilise, plan and build infrastructure for sports, such as training centres, stadiums, residential facilities and to look after the infrastructure developed for the Asian Games. To implement the various sports schemes and promotions, to encourage people to conduct research so as to overall develop the field of sports. To arrange and provide funds and other assistance for training of players, organisation of tournaments and competitions.

2.4 Sports Law and Welfare Association of India

It's a non-profit professional organisation bringing lawyers and sports persons together. It is also working on drafting a national sports code. It help sportspersons with sports injuries, risk management, potential liabilities, claims and compensations. It is also working on employment issues with sports. It Advocates in legal disputes of sports on behalf of sports persons and sports bodies and it also administers alternate disputes resolution. It advises on organization structures and forms of sports organizations, it assists in conducting National Championship in various sports, also helps arrange sponsorship for various sports meets and organizations.

2.5 National and State Sports Policies

Majority of the states in India have made their own sports policies. These policies apply on sportspersons domiciled in their states and deal with their appointment in government jobs, cash rewards and other benefits and awards to be given to meritorious sportspersons. In 1984 a National Sports Policy was drawn up primarily to improve the standard of sports in the country. In 2001 the 1984 policy was reformulated and The National Sports Policy, 2001 came in to being. This Policy has three fold objectives. To look after promotion and development of sports in the nation. To frame guidelines and lay down procedures to be followed by the National Sports Federations in their functioning. To provide sponsorships, grants and other assistance to various National Sports Federations. The 2001 Policy requires the National Sports Federations, Sports Authority of India, Indian Olympic Association and the Central Government to work in association and strive to achieve brilliance at national and international sports events.

2.6 Sports Broadcasting Signals Act, 2007

With an objective of providing access to sporting events of national importance to the maximum number of viewers and listeners the Parliament in 2007 enacted the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharti) Act, 2007. This Act mandates for simultaneous sharing of live broadcasting signals of sporting events of national importance with Prasar Bharti by the content right owner if he wishes to broadcast it on any cable or radio or D2H Network.

3. Judicial approach towards Sports Law

A new period of legal reforms dawned in sports with the judgement of Delhi High Court in the Ajay Jadeja v Union of India. It was observed that the field of sports deals with integrity issues and irregularities and there is need for establishing proper procedure to deal with complaints, coordination in investigations. The court held that certain functions of bodies involved in sports perform are public in nature and thus are subject to the writ jurisdiction of court.

When the IPL match fixing scandal happened, the authorities were pressed to use the Indian penal Code and the Maharashtra Control of Organised Crime Act despite none of the above laws dealing with fraud and crime in sports. It led to government drafting The Prevention of Sporting Fraud Bill 2013. This bill aims at bring all the federations under its ambit and deals specially with crimes and frauds in the field of sports. But this bill never saw the light of day as it has been put in cold storage. This landmark legislation if enacted would plug the loopholes and give a comprehensive legislation on the issue at hand.

The case of Zee Telefilms and Others v. Union of India & Others is considered as the Magna Carta of Sports law in India. The Apex court in this case held that B.C.C.I is not state within the meaning of Article 12 of the Indian Constitution. The court also observed that the sports bodies largely remain unaccountable to the state which should not be the case considering the importance of sports in the modern era.

The Mukul Mudgal Panel setup in the wake of allegations of match fixing and spot fixing in Indian Premier League in 2012 reported that the measure B.C.C.I is taking to prevent sporting frauds are inadequate and unproductive and the panel found that there is a dire need of a separate law that deals with sporting fraud. In 2015 Justice R. M. Lodha Committee was formed which recommended the constitution of a players association which would safeguard the interests of the players. But like other reforms, these recommendations are also in cold storage till date.

4. Conclusions and Suggestions

In the present age sports in India is not merely a source of entertainment but is a matter of

National Pride. Sports is increasingly witnessing huge media coverage and economic activity. With the increasing presence of professional leagues and commercial interests sports industry has advanced and assumed a corporate structure. Commercial agreements in sports, be it between franchises and players or multiyear contracts of sportspersons with advertisement firms, need a comprehensive and clear legislation to secure the interests of the parties.

By the very nature of the field a sportsperson has a very short professional life, and a period of couple years can mean everything for a professional athlete. Given the current pendency of cases in the courts, a special forum is needed for timely dispute resolution and disposal of cases relating to sports.

Though there are reforms taking place in the field of sports law but not with enough momentum. As most of the bills have been put in cold storage and have never seen the light of day. There has not been a single dedicated legislation of sports law till date.

The National Sports Federations have to be made more accountable, their functioning more transparent, and their governance be put in the right hands. The elections to these Federations are largely dominated by people who have nothing to do with the field of sports, and thus the power keeps rotating in the same cabal. Political office bearers are holding offices for multiple terms at a stretch only to be replaced by their dummies.

It is high time for Parliament to make fresh efforts to include sports in concurrent list so that it can legislate on the subject and enact a comprehensive national sports law