

**Before Ombudsman, Bihar Cricket Association  
Raghendra Kumar Singh (Retd. District Judge)  
Incharge Ombudsman, Bihar Cricket Association  
BCA/Ombudsman/16 of 2022**

Navin Kumar S/O Sri. Rajendra Prasad Sah R/O Station Road, Madhubani, Ward No – 18, P.S. - Madhubani, District – Madhubani, claiming himself to be elected as Secretary of Madhubani District Cricket Association, Madhubani.....Petitioner

Versus

1. Bihar Cricket Association through its President, presently also In-charge Secretary, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.
2. The President, Bihar Cricket Association, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.
3. The Chief Executive Officer, Bihar Cricket Association, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.
4. Prabhakar Singh, Advocate S/O Digvijay Kumar Singh, R/O Village – Chahraha, P.S. - Basopatti, District – Madhubani.
5. Ajay Kumar Singh, Advocate R/O Mahaseth Colony Opposite Khadi Bhandar Road, P.S. - Madhubani, District – Madhubani.

.....Respondents

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**BCA/Ombudsman/18 of 2022**

Kali Charan S/O Shri. Sudhir Chandra Mishra R/O Aanand Kutir, Veena Kunj, Station Postal Head Office Road, P.S.- Madhubani, Distt.- Madhubani -847211.....Petitioner

Versus

1. Bihar Cricket Association through its President, presently also In-charge Secretary, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.

Email: [bca@biharcricquetassociation.com](mailto:bca@biharcricquetassociation.com)

2. The President, Bihar Cricket Association, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.

Email: [bca@biharcricquetassociation.com](mailto:bca@biharcricquetassociation.com)

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R.K.P.

3. The Chief Executive Officer, Bihar Cricket Association, 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.

Email: [ceo@biharcricquetassociation.com](mailto:ceo@biharcricquetassociation.com)

4. Navin Kumar, S/O Rajendra Prasad Shah, R/O Station Road Madhubani, Ward No. 18, P.S.- Madhubani, Distt.- Madhubani.

Email: [navinswizz@gmail.com](mailto:navinswizz@gmail.com)

Mob. No. 7992494456

.....Respondents

17.09.2022

An application/complaint through Shri Navjot Yesu, Advocate has been filed on 12.09.2022 with Annexures 1 to 16 along with vakalatnama by one Navin Kumar fully described above in the cause title numbered as BCA/Ombudsman 16 of 2022 for the following reliefs:

To direct the Bihar Cricket Association (in short "BCA") to upload the names of the Members/Office Bearers of the Committee of Management/Executive Committee of Madhubani District Cricket Association (in short "Madhubani DCA") claimed to be came into existence through the election in the said DCA said to be held on 06.09.2022 on the official website of the BCA.

And for further direction to the BCA and the Electoral Officer of the BCA to accept name of the petitioner as the representative of Madhubani DCA on the basis of the authority issued by the COM of Madhubani District Cricket Association for the purposes of voting in upcoming BCA election – 2022.

And/Or pass such order(s) as this tribunal may deem fit and proper.

The aforesaid reliefs have been sought on the following grounds mentioned in the application/complaint -

That by order dt. 13.04.2022 passed by this tribunal in Case No. - BCA/Ombudsman – 12, 13 & 14 of 2021, Zeya Iqbal vs. BCA & Ors. (copy of which is Annexure- 1) some directions were given to the BCA including to form a Committee including a Retd. Judicial Officer (nominated in consultation with Ombudsman) as its Member and the said Committee have to function under the supervision of such Judicial Officer to verify the voter-lists of District Units/DCAs affiliated with the BCA which terms have expired and after said verification to form an Adhoc Committee for each of such District Units from the office-bearers of the clubs affiliated to each such District Unit which would be found genuine and elligible on the aforesaid verification and then to hold election under observance of the persons appointed by BCA amongst whom one must be either Retd. Judicial

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Officer or Retd. Bihar Administrative Officer and the said process have to be completed within three months from the date of said order dt. 13.04.2022. But the respondent BCA has no respect of the said order dt. 13.04.2022 and has been acting arbitrarily on its own whims and fancies by completely violating the said order as the BCA did not comply the aforesaid directions given in the said order dt. 13.04.2022 within the period mentioned in the said order and this action of the BCA was done intentionally and deliberately about which reasons are only best known to the BCA and none else.

It is also mentioned in the petition – on 16.06.2022 the then President, Madhubani DCA vide his Email to the CEO, BCA (copy of which is Annexure- 2) has requested him to give them the access of the said mail or treat the mail which has been provided therein as the official email of Madhubani DCA but for one reason or the other there was/is no response from the BCA.

That on 02.06.2022 the President, BCA published one notification (copy of which is Annexure- 3) regarding formation of a Committee under the Chairmanship of one Shri Nand Kumar Shrivastava claimed to be formed in the light of the aforesaid order dt. 13.04.2022 but this was done without consultation with the Ombudsman and without any decision taken in this regard by any resolution either taken in the COM of the BCA or in the General Body Meeting of the BCA and only the President, BCA could not be regarded as the BCA and the said formation of said Committee by the President, BCA is without any authority and legal sanctity because from the aforesaid notification it is apparently clear that no decision in this regard was taken by the BCA in its meeting of either its COM or its General Body as no information in this regard about holding meeting of its COM/General Body is not available/published by the BCA on its website till date.

That vide Notification dt. 08.08.2022 uploaded on the website of BCA (copy of which is Annexure- 4) the BCA have moved ahead and over reached the order of this tribunal as in the said notification it has been clearly mentioned in that in the Districts of Muzaffarpur, Bhojpur, Sitamarhi, Begusarai, Arwal, Buxar, West Champaran, Purnea, Katihar, Supaul, Vaishali, Seikhpura the elections have already been held but the Committee of Management in its meeting dt. 17<sup>th</sup> July, 2022 have decided to get verification of the papers of the aforesaid DCAs, where elections have already been held, should also be conducted by the Committee constituted under the Chairmanship of Retd. District Judge Shri Nand Kumar Shrivastava after receiving arrear affiliation fee; and the same is beyond the scope of the said order dt. 13.04.2022 and thus being arbitrarily and illegal and by doing so the authorities of the BCA have made mockery of the entire BCA; and the same has been done the respondent BCA wants to get unfettered powers by forming an Adhoc Committee in each of such District Units also with a view to that the present President, BCA would have place the person of his choice so as to leave him for a comfortable winning of the BCA election.

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That on 10.08.2022, the BCA have published a notification (copy of which is Annexure- 5) with regard to formation of Adhoc Committee in 15 District Units of BCA. Thereafter on 11.08.2022 the Adhoc Committee sent messages to some clubs for meeting on 12.08.2022 through WhatsApp but all the clubs were not called for the aforesaid meeting, and it is pertinent to mention that 12.08.2022 was holiday on the account of Raksha Bandhan and Aazadi Ka Amrit Mahotsav. Thereafter on 14.08.2022 a news article was published in daily newspaper (copy of which is Annexure- 6) wherein it has been stated that an Adhoc Committee has been constituted for Madhubani DCA and one Prabhakar Kumar Singh, Advocate has been appointed as the Electoral Officer.

That on 11.08.2022 the CEO, BCA filed one application in the aforesaid case BCA/Ombudsman- 12, 13 & 14 of 2021, which was already disposed on 13.04.2022, for extension of time in holding the election and modification of the order so far it relates to the appointment of Retd. Judicial Officer and for conducted election but copy of the said application was not supplied to any of the office-bearer of Madhubani DCA and without giving notice or opportunity to the intervenors in the aforesaid case order was passed on 16.08.2022 (copy of which is Annexure- 7) and this order was obtained by playing fraud and foul play by which the authority of Ombudsman has also been defamed and demeaned and all these illegal and manipulating acts have been done with a view to comfortable win by the present President, BCA in the upcoming BCA election. By the said order dt. 16.08.2022 the election must have to be completed by 07.09.2022.

That as per election schedule for Madhubani DCA notified in pursuance of the aforesaid news article published in daily newspaper (copy of which is Annexure- 6), the petitioner and the other persons filed their nomination paper for their respective posts on 24.08.2022; and in this regard copies of nomination forms of some candidates have been filed as Annexure 8 at Pages 47 to 52.

That on 26.08.2022 one Pankaj Kumar Chaudhary, who was then Joint Secretary of Madhubani DCA filed an objection petition (copy of which is Annexure- 9) before the Electoral Officer (of Madhubani DCA) about certain anomalies in scrutiny of candidates and allowing unauthorised candidates in his club and also for safe custody of documents relating to election but the said objection petition was considered by the Electoral Officer. Thereafter on the same date, i.e., 26.08.2022 voting for the election in Madhubani DCA through secret ballot papers under the supervision of the Observer sent by the BCA was started and after casting of 16 votes by the authorised persons of said 16 clubs out of total 20 clubs affiliated with Madhubani DCA found eligible after the verification by the Committee formed by the BCA under the Chairmanship of Shri Nand Kumar Shrivastava, Retd. District Judge, purported to be constituted in pursuance of the aforesaid order dt. 13.04.2022, the Electoral Officer for one reason or others the Electoral Officer

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burnt the aforesaid casted votes by secret ballot papers on 26.08.2022 (it appears that in the petition due to typing mistake the date has been typed 16.08.2022 instead of 26.08.2022) itself and to substantiate the aforesaid allegations of burying the secret ballot papers by the Electoral Officer there is video clip (copy of which has been sent to me and also to Shri Krishna Murari Prasad, Advocate of the BCA on their respective WhatsApp, and receiving of said video clip on the WhatsApp of said Krishna Murari Prasad, Advocate has been admitted to be received by him during course of hearing the matter held today virtually on Google Meet, but he has argued that he is recognising any person identity appearing in the said video clip).

That on 26.08.2022 (it appears that in the petition due to typing mistake the date has been typed 16.08.2022 instead of 26.08.2022) itself and emergent meeting was called for and it was unanimously decided that for conducting free and fair election in the Madhubani DCA by and amongst the clubs registered with Madhubani DCA on 06.09.2022 at 04:00 PM, as per aforesaid order dt. 16.08.2022, the election must have to be completed by 07.09.2022, keeping in view the act of burning the aforesaid casted ballot papers by the Electoral Officer the Adhoc Committee constituted for the Madhubani DCA, purported to be constituted in pursuance of the aforesaid order dt. 13.04.2022 has lost its sanctity, and as such, the clubs affiliated with Madhubani DCA were free to conduct election in said DCA from amongst the clubs so affiliated by calling a Special General Body Meeting of Madhubani DCA (copy of the minutes of the claimed meeting dt. 26.08.2022 is Annexure- 10). This was followed by sending an Email to the BCA (copy of which is Annexure- 11) by several office-bearers of Madhubani DCA on 29.08.2022 mentioning therein about the aforesaid anomalies during the aforesaid election process in the Madhubani DCA with further intimation to the BCA that the Committee so far functioning in said DCA till the formation of Adhoc Committee will continue to function and after conducting election in said DCA before 07.09.2022 the same shall be communicated to the BCA. Thereafter on 29.08.2022 the petitioner also filed a complaint through email to the District Magistrate/Superintendent of Police/Inspector General of Police, Madhubani (copy of which is Annexure- 12) for taking legal action in accordance with law against the persons found involved in the aforesaid rigging and adoption of mal-practices in the aforesaid election process but no action has been taken till filing of the present petition.

That on 06.09.2022, Special General Meeting of the Madhubani DCA was held in which all the authorised person of all the clubs registered with the Madhubani DCA participated in the meeting and after following all due process of law voting through raising hands was done under the direction and control of the Electoral Officer in which the newly elected Committee came to be elected as mentioned in the proceeding dated 06.09.2022 and copy of the said proceeding was also sent to the BCA and all the registered clubs through email on their respective email (copy of proceeding dt. 06.09.2022 and email dt. 07.09.2022 have been annexed as Annexure- 13).

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That on 09.09.2022 Madhubani DCA through email also communicated to the Ombudsman about the process of holding elections in Madhubani DCA on 06.09.2022 (copy of which is Annexure- 14).

That thereafter the petitioner requested BCA to upload the details of office-bearers of Madhubani DCA elected through aforesaid election process dt. 06.09.2022 on the official website of the BCA but the same has not been done so far and the name of some other persons are still appearing on the website (copy of which is Annexure- 15).

That the schedule for holding election of the BCA (copy of which is Annexure- 16) has been fixed and w.e.f 12.09.2022 to till 14.09.2022 call for members to file applications to nominate their representative is to be filed before the Electoral Officer of BCA and thereafter draft electoral list is to be prepared on 14.09.2022. The petitioner has a reasonable apprehension that his candidature for filing application as an authorised representative of Madhubani DCA will not be considered (copy of the authorisation made by office-bearers, claimed to be elected by the aforesaid election dt. 06.09.2022, of Madhubani DCA has been filed by the petitioner at Page 84 of the petition).

Heard Shri Navjot Yesu, Advocate for the petitioner and Shri Krishna Murari Prasad, Advocate for the BCA virtually on Google Meet. During the course of hearing said Shri Krishna Murari Prasad, Advocate has admitted that he has received copy of the petition along with its Annexures upto Page 84 today itself at the evening though he is ailing and about this facts he has already communicated to me through WhatsApp message in which he has also submitted the prescription of doctors and diagnostic investigation report, and as such, he could not have communicated to the authorities of the BCA about the facts of present case and as such he has no instruction of the BCA to submit on behalf of the BCA. Shri Navjot Yesu, Advocate for the petitioner took me with the averments made in the petition along with its Annexures and its relevancy and argued that if interim relief to effect of accepting the authorisation to the petitioner by the Madhubani DCA by the Electoral Officer of BCA for upcoming BCA election – 2022, for which the last date is 14.09.2022 as per election schedule notified by the Electoral Officer BCA (copy of which is at Pages 82, 83 as Annexure- 16) is not acceded the whole purpose of filing of this case would become infructuous, and, as such, there would be irreparable loss to the petitioner which could not be compensated by money and from the facts narrated above along with Annexures given on affidavit sworn by the petitioner on 12.09.2022 before N. Kumar, Authorised Oath Commissioner, Patna High Court bearing no. 18578 of said Oath Commissioner, the petitioner has been succeeded in proving prima facie case and balance of convenience in his favour. To this Shri Krishna Murari Prasad, Advocate for the BCA submitted that he could not submit any thing for the reasons mentioned above as stated by him but he has admitted that if interim relief is not granted the petition would become infructuous but he submitted that as the copy of the petition has been served

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on him today itself at evening and as he is ailing he could not have contacted the authorities of the BCA for their instructions in the present matter hence an adjournment should be granted and only after that the interim relief matter should be considered. But this request made on behalf of the BCA could not be acceded as in that case the present petition would be infructuous in toto causing irreparable loss to the petitioner which could not be compensated in the term of money and the petitioner has proved prima facie case and balance of convenience in his favour.

Consequently, the Electoral Officer of BCA for upcoming BCA election – 2022 is directed to accept the aforesaid authorisation in favour of the petitioner for Madhubani DCA provisionally till further order which would be passed on the next date fixed in the case which is fixed as 17.09.2022 as per the election schedule of BCA (copy of which is Annexure- 16) 18.09.2022 is the date for publication of final Electoral Roll and called to file nomination application for candidates contesting in the BCA election after disposal objections, if any, for which date for filing objection is fixed 15.09.2022.

The respondents 1 to 3 are directed to file their respective replies positively by 17.09.2022 which copies must be served on the counsel of the petitioner. The hearing would also be held on 17.09.2022 on the point of final hearing on the aforesaid interim relief and for that purpose no adjournment would be acceded in view of the election schedule of the BCA, and therefore, the replies must be filed till 12:00 noon on 17.09.2022 after serving its copies on the counsel of the petitioner.

The CEO of BCA is directed to bring into the notice of the Electoral Officer BCA about the present order for needful.

Another application, numbered as BCA/Ombudsman 18 of 2022, has been filed on 14.09.2022 by Shri Kali Charan above named petitioner filed by Sushri Dewanti Kumari, Advocate, in whose favour vakalatnama has been executed by the petitioner praying therein to set aside the order dt. 12.09.2022 passed in Case No. BCA/Ombudsman- 16 of 2022 stating that the said order dt. 12.09.2022 is against the order dt. 13.04.2022 passed in BCA/Ombudsman- 12, 13 & 14 of 2021 on the following facts mentioned in the application:

That as per order dt. 13.04.2022 passed in the aforesaid case BCA/Ombudsman- 12, 13 & 14 of 2021 an Adhoc Committee was constituted for Madhubani District Cricket Association (in short "Madhubani DCA") and the said Adhoc Committee were conducting election for said DCA on 26.08.2022 but before the said election on 26.08.2022 the opposite group started interference in the election process since the date of nomination for said election, and in support of the same there is a letter of the Adhoc Committee which is

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Annexure 2 (but with the application there is no such Annexure), and on the date of said election 26.08.2022 the opposite group after eruption of interference caused the Electoral Officer to burn the ballot papers and due to that the ballot papers were burnt by the Electoral Officer under duress exerted by the President of opposite group for which there is also video clips and due to that the Electoral Officers wrote an application to cancel the election and in support of the same a xerox copy of an application purported to be given by Electoral Officers to the Observer of Bihar Cricket Association (in short "BCA"), has been annexed at Page 27.

That on 09.09.2022 in presence of three Observers, namely, Shri Mohd. Tarique Iqbal (Kishanganj), Shri Nandan Kumar Singh (Siwan), Shri Vishwas Singh (Jehanabad) sent by BCA and persons of local administration, media by Shri Prabhakar Singh, Advocate, Shri Priyaranjan Prabhash Jha, Advocate, both being Electoral Officers conducted election in the said DCA as after disturbance in the election on 26.08.2022 the Adhoc Committee had already announced that the election in the said DCA would be conducted within 15 days by re-polling and in pursuance of the same said election on 09.09.2022 was conducted.

That the so-called election in said DCA said to be conducted on 06.09.2022 was done in absence of the Members of the Adhoc Committee, Observer of the BCA, persons belonging to the local administration, media and any publication to give information about conducting election on 06.09.2022 in said DCA to the other candidates and also in absence of such other candidates; and therefore, how it can be said that the said election dt. 06.09.2022 was done in pursuance of the order of the Ombudsman?

That a petition filed by one Shri Ravindra Singh questioning formation of 'Three Men's Committee' and Adhoc Committee in DCAs and also to stay the election process in Madhubani DCA is pending before this forum.

As the matters enumerated in above numbered two cases are related with each other hence vide order dt. 14.09.2022 passed in BCA/Ombudsman 18 of 2022 both the cases were ordered to be heard analogously and as such both the cases were taken today for hearing analogously in the meantime after passing of the order on 12.09.2022 in BCA/Ombudsman 16 of 2022 and order dt. 14.09.2022 in BCA/Ombudsman 18 of 2022 some documents with list of the documents have been filed by the petitioner of BCA/Ombudsman 18 of 2022 and the soft copy of the same along with the petition including attached papers of said case has been sent to Shri Navjot Yesu, Advocate for the petitioner of BCA/Ombudsman 16 of 2022

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and also to Shri Krishna Murari Prasad, Advocate for the BCA on their respective email/whatsapp by Sushri Dewanti Kumari, Advocate for the petitioner of BCA/Ombudsman 18 of 2022 and the said fact has been admitted by aforesaid Shri Navjot Yesu, Advocate and Shri Krishna Murari Prasad, Advocate today during hearing of the aforesaid two cases virtually on Google Meet through which Shri Rajesh Kumar, Advocate also appeared on behalf of the petitioner of BCA/Ombudsman 18 of 2022 along with Shushri Dewanti Kumari, Advocate. Counter has been filed on behalf of aforesaid Navin Kumar in BCA/Ombudsman 18 of 2022. All the aforesaid advocates have been heard in the present matter of both the cases.

From pleading of the parties of both the cases it is an admitted fact that election in Madhubani DCA was being conducted in Madhubani DCA on 26.08.2022 and after casting of some votes on behalf of the affiliated clubs of Madhubani DCA in said election the ballot papers through which aforesaid votes were casted were burnt by the Electoral Officer of said election himself on 26.08.2022 itself. There is divergent versions about the circumstances under which the ballot papers were burnt by the Electoral Officer. According to the petitioner of BCA/Ombudsman 16 of 2022 the aforesaid ballot papers were burnt by the Electoral Officer under pressure of the Adhoc Committee including Shri Kali Charan (petitioner in Ombud 18 of 2022 and also a candidate in the aforesaid election of Madhubani DCA) constituted by the 'Three Men's Committee' under the Chairmanship of Shri Nand Kumar Shrivastava, Retd. District & Sessions Judge constituted by the BCA in pursuance of the order dt. 13.04.2022 passed in BCA/Ombudsman 12, 13 & 14 of 2021 in which some modifications were made vide order dt. 16.08.2022 by which the deletion of the condition to conduct the elections in DCAs which COMs' terms have expired before 13.04.2022 under supervision of Retd. Judicial Officer / Retd. Bihar Administrative Service Officer mentioned in the aforesaid order dt. 13.04.2022 was allowed with further direction to hold such election must be conducted by 07.09.2022 under the supervision of an independent and impartial person with a view to that there should not be any manipulations/rigging in the whole election process. On the other hand, as per Shri Kali Charan said ballot papers were burnt by Electoral Officer under pressure of the group in Madhubani DCA in which said Shri Navin Kumar is included but during the argument being put forth on behalf of said Shri Kali Charan the counsel appearing for him namely Shri Rajesh Kumar, Advocate it has been urged that the said ballot papers were burnt by the Electoral Officer with the consent of both the contesting groups in said DCA but the facts about burning the ballot papers has not been mentioned either in the report of the Electoral Officers or the Observer said to be deputed by the BCA for said election on 26.08.2022 which copies have been filed on behalf of aforesaid Shri Kali Charan at Pages 5 & 4 amongst the documents filed on his

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behalf. The report of the Observer on above noted Page 4 is purported to be received on 27.08.2022 at 07:15 PM by someone else (whose identity has not been mentioned on the endorsement of the aforesaid receiving) and non-mentioning of the facts of burning the ballot papers in this report of Observer coupled with the report of the Electoral Officers dt. 26.08.2022 purported to be addressed to the Observer (which copy was also filed by Shri Kali Charan along with his original petition at Page 27) also does not averr the fact of the burning of the ballot papers creates a reasonable finding to be infeered that the claim of said Shri Kali Charan that the ballot papers were burnt by the Electoral Officer under the duress the group in which said Shri Navin Kumar is also a Member in Madhubani DCA or with the consents of both the groups in Madhubani DCA are palpably false and no prudent person could rely on the aforesaid claims made on behalf of said Shri Kali Charan and this circumstance also leads to infer that the Electoral Officers conducting the aforesaid election in said DCA were not impartial and independent persons and they were acting as an agent of said Shri Kali Charan who was also a candidate in said election and aslo a Member of the Adhoc Committee constituted for said DCA by the Committee constituted under the Chairmanship of said Shri Nand Kumar Shrivastava and thus the condition that the election in the DCAs which terms have expired before 13.04.2022 must be conducted under the supervision of an independent and impartial person keeping in view that there should not be any manipulations/rigging in the whole election process as mentioned in the aforesaid order dt. 16.08.2022 was completely flouted by the Electoral Officers of said election in Madhubani DCA and as such the claim of the petitioner Shri Navin Kumar in Ombud 16 of 2022 in Para 21 of his petition to the effect that once the election was held and votes were casted which was later on burnt by the electoral officer, in such circumstances the formation of Adhoc Committee loses its sanctity and the Madhubani Distric Cricket Association was free to conduct election for its office bearers from amongst the registered clubs by calling a Special General Meeting, appears to be genuine and reliable in the aforesaid circumstances and other connected matters about which I would mention hereinafter. In those facts I think it fit the contents of the report of the Electoral Officers at Page 27 of the documents filed on behalf of said Shri Kali Charan in which it has been mentioned that during the voting process for three affiliated clubs 3-3 persons having Aadhar Cards of the common names appeared and as there was nothing before them (Electoral Officer) to identify the actual person affiliated with such three clubs and also due to hue & cry being raised at that time as regards to cast vote by them by both the warring groups in said DCA the atmosphere became tensed and as there was no cover of any administrative force for security the voting process was postponed with request<sup>ed</sup> to the Observer to furnish full detail of the voters of the clubs and then fresh voting would be done but there is no wishper about which three clubs the said controversy arose and what are names of those 3-3 persons and what were numbers of their respective Aadhar Cards and no such Aadhar Cards or its copies have been brought either by

the BCA or the Adhoc Committee constituted for said DCA of which Shri Kali Charan was also a Member and also being a candidate in the said election and the absence of these in the reports of the Electoral Officers or of the Observer (in which there is no mentioning about controversies about the voters of three clubs) create a serious doubt about the claim of Electoral Officers about the aforesaid controversies and no prudent person could rely on the aforesaid claim of the Electoral Officers in the aforesaid mentioned circumstances and this fact also goes to support the claim made by Shri Navin Kumar in Para 21 of his petition.

It has been urged on behalf of said Shri Kali Charan and BCA that the election claimed by Shri Navin Kumar said to be held in said DCA on 06.09.2022 was conducted by the Electoral Officers not appointed by the Adhoc Committee of said DCA hence the claim of Shri Navin Kumar to hold the said election dt. 06.09.2022 in said DCA as genuine could not be made. In this regard it is pertinent to mention that in Para 20 of the petition of Shri Navin Kumar that on 26.08.2022 after casting of 16 votes out of 20 votes as there was 20 verified clubs with their respective office-bearer by the aforesaid 'Three Men's Committee' constituted under the Chairmanship of Shri Nand Kumar Shrivastava all of sudden those 16 ballot papers were burnt by the Electoral Officers for reasons best known to them and as already held that this action of the Electoral Officers of burning the ballot papers was an act of partiality and not independent act no faith could be reposed by the affiliated clubs voters and in these circumstances, as already stated that the claim of Shri Navin Kumar as mentioned in Para 21 of his petition appears to be genuine and reasonable and as such the proceeding drawn by 12 clubs of said DCA which copy is Annexure 10 at Pages 55 to 57 of his petition and the proceeding of the AGM dt. 06.09.2022 held in said DCA through which election in said DCA, copy of which is Annexure 13 at Pages 65 to 71 appears to be reasonable and acceptable. Here it is also pertinent to mention that by order dt. 16.08.2022 passed in BCA/Ombudsman 12, 13 & 14 the election has to be held by 07.09.2022 under supervision of impartial and independent person in such a way that there should not be any manipulations/rigging in the whole election process and this condition could not be fulfilled by the Electoral Officers appointed by said Adhoc Committee of said DCA in the aforesaid mentioned circumstances and as such the election conducted by 14 clubs out of total 20 verified clubs was reasonable and proper. Here it is also pertinent to mention that said Shri Kali Charan has not filed any document(s) showing the proceeding for holding election in said DCA on 09.09.2022 as claimed by him and as such his claimed election in said DCA on 09.09.2022 could not be held to be genuine as there is no proceeding of such election on 09.09.2022.

Here it is also pertinent to mention that with the list of documents filed on behalf of Shri Kali Charan a copy of the proceeding purported to be held on 26.08.2022 of the AGM of Madhubani DCA has been filed being at Pages 16 to 18 amongst those documents and a copy of

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Rajesh

said AGM dt. 26.08.2022 of said DCA has also been filed by Shri Navin Kumar along with his counter filed in BCA/Ombudsman 18 of 2022 at Pages 93 to 96 of said counter being its Annexure S and the aforesaid document has been mentioned in Para 33 of said counter at its Pages 10, 11 and the said counter has been supported with the affidavit of said Shri Navin Kumar being affidavit no. 11762 of the Advocate Oath Commissioner of Patna High Court and the petition of Shri Kali Charan in BCA/Ombudsman 18 of 2022 is neither verified nor supported with any affidavit and the same is position as regards to the documents filed on his behalf with aforesaid list of documents and as such keeping in view comparison of the proceeding purported to be of the AGM dt. 26.08.2022 one filed on behalf of said Shri Kali Charan at Pages 16 to 18 of those documents, especially, its Page 18 and another filed on behalf of said Shri Navin Kumar along with his counter being Annexure S at Pages 93 to 96 of said counter, especially, its Page 96 it is clear that there is difference about the contents mentioned at Page 18 of the documents filed on behalf of said Shri Kali Charan wherein after signature of Shri Ganesh Chandra Jha at serial no. 24 there are some writing about decisions taken in said AGM dt. 26.08.2022 in which at serial no. 1 it has been mentioned that in the said AGM it was decided that if any hindrance is arose in the voting process held on 26.08.2022 the legality of the AGM shall remain as valid and if in any case any occasion arise for re-voting the same would be conducted within 15 days and at serial no. 2 it has been mentioned that in the voting process due to hindrance in the same the Electoral Officer cancelled the voting process with request to hold re-voting within 15 days but from perusal of Annexure S of said counter of Shri Navin Kumar at its Pages 93 to 96, especially, at Page 96 after signature of said Shri Ganesh Chandra Jha at serial no. 24 there is no such writing about any decision purported to be taken in said AGM and about the same it has been averred by said Shri Navin Kumar in Para 33 of said counter at its Pages 10, 11 on affidavit in which it has been mentioned that said Shri Navin Kumar being respondent no. 4 in BCA/Ombudsman 18 of 2022 obtained photo-copy of said proceedings and from the same it is apparent that there was no any such decisions which appear on Page 18 of the documents of those documents filed on behalf of said Shri Kali Charan sans any affidavit in support of those documents and pleadings in BCA/Ombudsman 18 of 2022.

Consequently, the claim of Shri Kali Charan made in BCA/Ombudsman 18 of 2022 is rejected. Accordingly, if any claim made by said Shri Kali Charan for Madhubani DCA before the Electoral Officer of the BCA for upcoming election of the BCA-2022, the same should not be entertained by the Electoral Officer. For the reasons mentioned above the claim of Shri Navin Kumar and the relief sought by him in BCA/Ombudsman 16 of 2022 are allowed.

In the aforesaid terms the aforesaid two cases are hereby disposed of.

(Contd.)  
Ranjit

*R Singh*  
(Raghwendra Kumar Singh)  
In-charge Ombudsman  
Bihar Cricket Association

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