

**Before Ethics Officer, Bihar Cricket Association
Raghendra Kumar Singh (Retd. District Judge)
Ethics Officer, Bihar Cricket Association**

BCA/E.O.- 01 of 2022

Hari Om Jha claiming himself to be Secretary of Purnia District Cricket Association (in short "Purnia DCA") & 14 Others claiming themselves to be the Office-Bearers of Different DCAs of Bihar.....Petitioner

Versus

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

Email: bca@biharcricicketassociation.com

2. Mr. Rakesh Kumar Tiwari President, Bihar Cricket Association, 1st & 2nd Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.

Email: bca@biharcricicketassociation.com

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

Email: ceo@biharcricicketassociation.com

.....**Respondents**

20.09.2022

A petition has been filed on 14.09.2022 by 15 persons including Shri Hari Om Jha, Shri Ritesh Kumar, Mohhamed Inamuddin Khan, Shri Parmendra Kumar Singh, Shri Amitabh Kumar, Shri Dileep Kumar, Miss Zema Iqbal, Shri Sanjay Kumar Rai, Shri Himanshu Shekhar, Shri Manoj Kumar, Shri Parveen Kumar, Shri Ravi Ranjan, Shri Mohan Kumar, Shri Vineet Kumar, Shri Arvind Kumar Singh claiming themselves to be the office-bearers of different DCAs of Bihar such as of the districts Purnia, Katihar, Bhojpur, Vaishali, Munger, Jehanabad, West Champaran, Buxar, Samastipur, Muzaffarpur, Darbhanga, Madhubani, Arwal, Sitamarhi, Lakhisarai alleging conflict of interest described in Rule 42(1) of the BCA Rules & Regulations against Shri Rakesh Kumar Tiwari present President of Bihar Cricket Association (in short "BCA") on the ground that after removal of Secretary & Joint-Secretary, BCA for several more than 45 days from the dates of removal of the incumbents Secretary & Joint-Secretary, BCA from their respective posts by the

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orders of either Ethics Officer or Ombudsman of BCA the election for the said two posts has not been held as yet though as per Rule 17(9) of the Rules & Regulations of BCA any vacancy in the Committee of Management due to death, resignation, insolvency, unsoundness of mind, nomination to the BCCI are other disqualification, in case of an elected Executive Member shall be filled up for the remaining period by elections at Special General Body Meeting of BCA convened by the Secretary for that purpose within 45 days; but Mr. Rakesh Kumar Tiwari being President of the BCA also has assumed charge of Secretary as Acting Secretary of BCA after removal of Mr. Kumar Arvind who was elected as Joint-Secretary in the last BCA election and after removal of Shri Sanjay Kumar, who was elected as Secretary, BCA, said Shri Kumar Arvind was also functioning as Acting Secretary of BCA besides Joint-Secretary, BCA for more than remaining 45 days since removal of said Shri Sanjay Kumar from the post of Secretary, BCA; and as Acting Secretary, BCA Shri Rakesh Kumar Tiwari, who is also President of BCA doing all functions of Secretary, BCA and the same, as per claims of the petitioner, comes under purview of conflict of interest and beside it he unilaterally without decision of the COM of BCA has appointed Mohd. M Modassir, who is from Goa, as Electoral Officer for upcoming BCA election though as per Rule 37(1) of the Rules & Regulations of BCA, the Electoral Officer of BCA must be a person who has been a former Member of the Election Commission of Bihar and the Electoral Officer should be appointed by the COM of BCA, but the said provisions have not been followed by said Shri Rakesh Kumar Tiwari, and Shri Rakesh Kumar Tiwari had disturbed Full Members of BCA un-constitutionally because the elections in the DCAs of Signatory Office-Bearers were already done after completion of the terms of the Office-Bearers in those DCAs and the same were never challenged in any appropriate forum and as such the same could not be changed. It has also been claimed in the petition that the present COM (Committee of Management) of BCA is death because except Mr. Rakesh Kumar Tiwari, President and Mr. Ashutosh Nandan Singh, Treasurer of BCA all others are ineligible, resign or remove, and Mr. Rakesh Kumar Tiwari is also ineligible as per conflict of interest, and beside it, the case of molestation against him has been registered at Parliament Street Police Station, Delhi and the matter is sub-judice before Delhi High Court and on the basis of aforesaid grounds the Signatories of the petition have sought relief(s) under Rule 43 of the BCA Rules & Regulations by passing appropriate order in said Rule 43.

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RK Singh

And on the basis of aforesaid alleged grounds mentioned in the petition the petitioners have prayed:

- (1) Please stop illegal/unconstitutional election scheduled on 25th September 2022 from immediate effect.
- (2) Please stop the functioning of Mr. Rakesh Kumar, Tiwari, President, Bihar Cricket Association after considering conflict of interest and Molestation case filed against him.
- (3) After looking so many facts and present condition of cricketing activity in Bihar, Please form a 3 men's committee headed by Mr. Sanjay Kumar, Secretary, Bihar Cricket Association and one legal person and more related to cricket to run the cricketing activity in Bihar as present Committee of management is dead.

A supplementary application in the present case being BCA/E.O.- 01 of 2022 has been filed on 16.09.2022 on behalf of the petitioners stating therein that:

This is to inform you that Mr. Rakesh Kumar Tiwari is claiming himself as President and Secretary of Bihar Cricket Association which comes under Conflict of Interest and conveyed illegal Annual General Body Meeting on 28.08.2022 by his own pen notice dated 08.08.2022 as President and Secretary of Bihar Cricket Association which is bad in eye of law as per the constitution of Bihar Cricket Association.

It is therefore further prayed that your honor may further be pleased to quash/set aside the notification dated 08.08.2022 by which President-cum-Acting Secretary has convened Annual General Body Meeting on 28.08.2022 AND till final adjudication of main case may be pleased to stay the operation of impugned notification dated 08.08.2022 issued by President-cum-Acting Secretary.

On 16.09.2022, on which date the case was fixed for filing replies by respondent and hearing vide order dt. 14.09.2022, link for Google Meet were sent to Shri Ritesh Kumar one of the petitioner and Shri Krishna Murari Prasad, Advocate for BCA on their respective mobile no. but said Shri Krishna Murari Prasad did not respond even after calling him on voice through regular mode and also on WhatsApp mode several times on that date. Hence on that date only Shri Ritesh Kumar was heard virtually on Google Meet and he submitted argument in support of the petition. After hearing him he (Shri Ritesh Kumar) was directed to serve the copy of all his arguments submitted on that date to the Counsel of the BCA by the next date, and the case was fixed for hearing to 17.09.2022.

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On 17.09.2022 I heard said Shri Krishna Murari Prasad who admitted that he has received soft copy of the arguments put forth on behalf of the petitioners on 16.09.2022 and in his reply for BCA it was submitted by him that before proceeding in the present matter first of all decision should be taken on the point whether the petitioners are Members of the Executive Committee of their claimed DCAs (Full Members of BCA) and only after decision on this point the reply would be filed. In this respect a WhatsApp message was also sent to me on my WhatsApp by said Shri Krishna Murari Prasad making submissions on behalf of the BCA in four cases which were fixed for hearing on that date, i.e., 17.09.2022 including the present case in respect of which only point stated is the same which has been put orally today by him beside mentioning in that WhatsApp message that for BCA election date has already been declared on 28.08.2022 and its process for the same is going on.

A copy of the argument submitted by said Shri Ritesh Kumar during the course of hearing on 16.09.2022, which soft copy was received by said Shri Krishna Murari Prasad as per his own admission today, has also been given to me on 17.09.2022 before taking the present case for hearing on that date. The aforesaid argument submitted by Shri Ritesh Kumar is as follows:

1) Mr. Sanjay Kumar, Honorary Secretary has been removed by order dt. 15.05.2021 in Case No. BCA/EO/01-02 of 2020 and after that power of Secretary was handed over to Mr Kumar Arvind, Joint Secretary but he was also removed in the meeting of Committee of Management dated 16.08.2021 and Mr Rakesh Kumar Tiwari took the power of Secretary. Since thereafter he is discharging/function as President-cum-Acting Secretary of BCA.

2) Rule 10 (1)(d) provides POWERS AND DUTIES OF THE PRESIDENT, which reads "The President shall, in the event of a vacancy or indisposition of an Office Bearer, **delegate the functions to another Office Bearer** until the vacancy is duly filled up, or the indisposition ceases." Thus it is clear that President will delegate the power to any another office bearer and can not delegate the power in himself.

3) Rule 18 (1)(IV) provides POWER AND FUNCTIONS OF THE COMMITTEE OF MANAGEMENT, which reads "**Ensure a distribution and balance of authority so that no single individual has unfettered powers;**" It is very much evident that Mr Rakesh Kumar Tiwari is using unfettered powers since the COM meeting dated 16.08.2021. Secretary has been made custodian of all proceeding books/Register. President is authorised to preside the meetings and to sign Minutes of the meetings. Presently President is the only

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person who keep both the powers/rights altogether.

4) If Secretary was removed on 15th May 2021 then the post should have been filled up within 45 days in compliance of Rule 17(9)(a), Which reads **“(9)Any vacancy in the Committee of Management due to death, resignation, insolvency, unsoundness of mind, nomination to the BCCI or other disqualification shall be filled up for the remaining period: (a) In the case of an elected Executive Member, by elections at a Special General Body meeting of the BCA convened by the Secretary for that purpose within 45 days”**. But afer removal of Secretary, Joint Secretary and District Representative, posts are still vacant till date and Mr Tiwari is using unfettered powers.

5) As per Rule and Regulations of BCA, no individual could hold more than one post of Office Bearer at a single point of time as per Rule 42(4) which reads **“It is clarified that no individual may occupy more than one of the following posts at a single point of time except where prescribed under these Rules: (f) Administrator / Office-Bearer”**.

6) Mr Rakesh Kumar Tiwari by using his power has included his Father-in-law Mr Amarnath Dubey in COM of Saran District Cricket Association as a Vice President and Brother-in-law Mr Shailendra Kumar Mishra in the COM of Siwan District Cricket Association as Joint Secretary. He also influenced the COM of both the district associations to send their names as representative for including their name in the voter list of election scheduled to be held on 25th Sep 2022. Again this is a violation of Rule 42.(1)(V) CONFLICT OF INTEREST (V) Position of influence.

7) Mr Rakesh Kumar Tiwari comes in Conflict of Interest as per Rule 42 (4) and Rule 42 (1)(V) and therefore it is prayed before this Hon'ble Tribunal to ban Mr Rakesh Kumar Tiwari from BCA for minimum period of 5 years.

8) It is therefore also prayed to quash/set aside the notification dated 08.08.2022 by which President-cum-Acting Secretary has convened Annual General Body Meeting on 28.08.2022 and for staying the operation of decisions taken in the Annual General Body Meeting dated 28.08.2022. Mr Tiwari issued the notice by using his unfettered powers and violation of Rule 42 (4) of BCA.

9) Mr Rakesh Kumar Tiwari has also violated Rule 37(1) of BCA by appointing Md M Modassir as Electoral Officer from Goa, whereas Rule clearly states that it should be from Bihar. 37(1) reads **“At least four weeks prior to the Annual General Meeting at which an election is to be held, the Committee of Management shall appoint an Electoral Officer,**

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R. Singh

who shall be a former member of the Election Commission of Bihar". It is further prayed to restrain the Electoral Officer from conducting illegal election scheduled to be held on 25th Sep 2022.

10) At Present Committee of Management doesn't exist because except Mr Rakesh Kumar Tiwari, President and Mr Ashutosh Nandan Singh, Treasurer of BCA, all other executive members of COM are either ineligible or has resigned or has been removed. Mr Rakesh Kumar Tiwari is also ineligible as per conflict of interest and as FIR being Parliament Street P.S. Case No. 0029 of 2022 has been lodged for committing molestation. As per Rule 18(8) of BCA provides that Five members of the COM shall required to be constitute the quorum.

11) Present condition of Cricketing activity in Bihar is very pathetic. There is full of corruption in Bihar Cricket Association and the best example is email of Jyoti Kumari, state team player, dated 12th April 2022 in which she has stated that Rupees 5 lakhs have been asked as bribe by Mr Manish Raj, CEO, BCA. The same has also been emailed to your good office including all the members of BCA and BCCI.

12) It is further prayed that after looking the condition of cricketing activity in Bihar and using the power of Ethic Officer mentioned in Rule 43 which provides that "The Ethics Officer is wholly empowered to also direct any additional measures or restitution as is deemed fit in the circumstance." It is therefore requested to restore Mr Sanjay Kumar as Honorary Secretary of Bihar Cricket Association by using power of restitution/restoration mentioned in aforesaid Rule. Further also mentioned that as per order no BCA/EO/01-02 of 2020 dated on 15.05.2021, Sanjay Kumar has completed 1 year of ban from cricketing activity. It was also prayed to form a 3 men committee headed by Mr Sanjay Kumar and one legal person and one related to cricketing background to run the cricketing activity in Bihar.

13) It was humbly prayed for interim order to save the future of cricketers and cricket in Bihar.

As regard to the contention made on behalf of the BCA that first of all the locus of the petitioners should be determined and then further proceeding should be made in the present case is concerned it is appropriate to refer Rule 43 of the BCA Rules & Regulations the relevant portion of which are as follows:

"Rule 43

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(2) Any instance of Conflict of Interest may be taken cognizance of by the Ethics Officer:

- a. Suo Moto:
- b. By way of a complaint in writing to the official postal or email address: or
- c. On a reference by the Committee of Management:

(3) After considering the relevant factors and following the principles of natural justice, the Ethics Officer may do any of the following:

- a. Declare the conflict as Tractable and direct that:
 - i. The person declare the Conflict of Interest as per Rule 45 (3); or
 - ii. The interest that causes the conflict be relinquished; or
 - iii. The person refuses from discharging the obligation or duty so vested in him or her;
- b. Declare the conflict as Intractable and direct that:
 - i. The person be suspended or removed from his or her post; and
 - ii. Any suitable monetary or other penalty be imposed; and
 - iii. The person be barred for a specified period or for life from involvement with the game of cricket;

The Ethics Officer is wholly empowered to also direct any additional measures or restitution as is deemed fit in the circumstances”.

From provision of sub-rule (2) of said Rule 43 it is crystal clear that any instance of conflict of interest may be taken cognizance by the Ethics Officer suo moto or on complaint of any person; and therefore, it is not necessary to decide whether the petitioners are office-bearers of different DCAs as claimed by them because a complaint in this regard can be made by any person whether such person is connected with any DCA/BCA/any club affiliated with any DCA are not. Hence, it is held that the cognizance taken by me as Ethics Officer, BCA in the present matter on the aforesaid complaint is valid one and the decision on the status of the petitioner is not necessary to decide the alleged conflict of interest against said Shri Rakesh Kumar Tiwari, and accordingly, the complaint petition is maintainable.

Now, the question is whether there is any conflict of interest against said Shri Rakesh Kumar Tiwari or not? For deciding the said question the relevant rules of the BCA Rules &

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Regulations are appropriate to be referred, as stated either in the petition or in the submissions made on behalf of the petitioners which hard copy has also been provided to me on their behalf and its soft copy was sent to Shri Krishna Murari Prasad, Advocate for BCA. In this regard the relevant portions of the relevant rules are extracted hereinunder:

“Rule 17: THE COMMITTEE OF MANAGEMENT

(9) Any vacancy in the Committee of Management due to death, resignation, insolvency, unsoundness of mind, nomination to the BCCI or other disqualification shall be filled up for the remaining period:

- a. In the case of an elected Executive Member, by elections at a Special General Body meeting of the BCA convened by the Secretary for that purpose within 45 days;
- b. In the case of a nominated Executive Member, in the same manner as prescribed for the respective nominee in Rule 17(2) above;

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“Rule 18: POWER AND FUNCTIONS OF THE COMMITTEE OF MANAGEMENT

(1) The affairs of the BCA shall be governed by the Committee of Management and its framework of governance shall:

iv. Ensure a distribution and balance of authority so that no single individual has unfettered powers:

(8) Five members of the Committee of Management shall form a quorum for its meetings. The President or in his absence a member elected by those present at the meeting shall be the Chairperson. In the event of a tie, the Chairperson shall have a casting vote.

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“Rule 10: POWERS AND DUTIES OF OFFICE-BEARERS

(1) The President

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(d) The President shall, in the event of a vacancy or indisposition of an Office-Bearer, delegate the functions to another Officer Bearer until the vacancy is duly filled up, or the indisposition ceases.

(3) The Secretary

The Secretary shall:

(a) Keep and maintain the minutes of Annual General and Special General Meetings, of the General Body, the Meetings of the Committee of Management and of the Committees appointed by the General Body in appropriate books and shall cause them to be properly and correctly recorded and confirmed.

(b) Be one of the three persons who sign the audited annual accounts and other financial statements of the BCA.

(c) Sign all contracts for and on behalf of the BCA and carry on all correspondence in the name of the BCA as otherwise directed by the Committee of Management.

(d) Be in charge of the records of the General Body, the Committee of Management, the Governing Council and all Committees, and such properties as may be trusted to his care by the BCA, the Committee of Management or the Governing Council as the case may be.

(e) Convene the Annual General Meeting, the Special General Meeting and the Meetings of the Committee of Management and Executive Council with the concurrence of the President.

(f) Circulate to all Members of the BCA the statement of accounts prepared by the Treasurer.

(g) Have the power to delegate any work to the Honorary Joint Secretary.

“Rule 42

CONFLICT OF INTEREST

(1) A Conflict of Interest may take any of the following forms as far as any individual associated with the BCA is concerned:

(v) Position of influencer: When the individual occupies a post that calls for

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decisions of governance, management or selection to be made, and where a friend, relative or close affiliate is in the zone of consideration or subject to such decision-making, control or management. Also when the individual holds any stake, voting rights or power to influence the decisions of a franchisee / club / team that participates in the commercial league(s) under BCA;

Illustration 1: A is a selector. His son is in the zone of consideration for selection. A is hit by Conflict of Interest.

Illustration 2: B is the Secretary of a District Association. He also runs a cricket academy in the District. B is hit by Conflict of Interest.

Illustration 3: C is an umpire. His daughter D is a member of a team which is playing a match in which C officiates. C is hit by Conflict of Interest.

Illustration 4: E is the President of a District Association and his company F owns 12 cricket clubs in the District from which probables are selected for the District team. E is hit by Conflict of Interest.

Explanation: The illustrations which refer to a President / Secretary / Vice-President may be read as illustrations referring to any other Office Bearer, and also to be the members of the Apex Council, the Governing Council and the Committees.

(3) A Conflict of Interest may be either Tractable or Intractable.

a. Tractable conflicts are those that are resolvable or permissible or excusable through recusal of the individual concerned and/or with full disclosure of the interest involved;

b. Intractable conflicts are those that cannot be resolved through disclosure and refusal, and would necessitate the removal of the individual from a post or position occupied so that the conflict can cease to exist;

Explanation: In Illustration (3) of Rule 42(1)(i), if the wife held 51% shares, the conflict will be treated as intractable. If the wife holds 13% shares the conflict is tractable or intractable will have to be decided by the Ethics Officer on the facts of the case. If the wife holds 1%-2% or only 100 shares out of 1 crore shares, a disclosure of the same may be sufficient.

(4) It is clarified that no individual may occupy more than one of the

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following posts at a single of time except where prescribed under these Rules:

- a. Player (Current)
- b. Selector / Member of Cricket Committee
- c. Team Official
- d. Commentator
- e. Match Official
- f. Administrator / Office-Bearer
- g. Electoral Officer
- h. Ombudsman& Ethics Officer
- i. Auditor
- j. Any person who is in governance, management or employment of a Franchisee
- k. Member of a Standing Committee
- l. Chief Manager & Mangers
- m. Office Bearer of a Member
- n. Service Provider (Legal, Financial, etc.)
- o. Contractual entity (Broadcast, Security, Contractor, etc.)
- p. Owner of a Cricket Academy

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“Rule 1.(A) DEFINITIONS:

In these rules unless the context otherwise requires:-

(a) 'ADMINISTRATOR' shall mean and include present President, Vice President, Honorary Secretary, Honorary Treasurer, Honorary Joint Secretary of the Bihar Cricket Association (“BCA”), present President and Secretary of Full Members affiliated to the BCA, a representative of a Member of the BCA, and any person connected with the Governance and Management of the affairs of the BCA or of its Committees.

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“Rule 37: THE ELECTORAL OFFICER

(1) At least four weeks prior to the Annual General Meeting at which an election is to be held, the Committee of Management shall appoint an Electoral Officer, who shall be a former member of the Election Commission of Bihar.

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As regards to the allegation that Mr. Rakesh Kumar Tiwari by using his power has included his Father-in-law Mr Amarnath Dubey in COM of Saran District Cricket Association as a Vice President and Brother-in-law Mr Shailendra Kumar Mishra in the COM of Siwan District Cricket Association as Joint Secretary. He also influenced the COM of both the district associations to send their names as representative for including their name in the voter list of election scheduled to be held on 25th Sep 2022. Again this is a violation of Rule 42.(1)(V) CONFLICT OF INTEREST (V) Position of influence is concerned, if for arguments sake is accepted to be true even then it cannot be said that the same come under purview of aforesaid provision of Rule 42.(1)(v) of said Rules & Regulations of BCA because the aforesaid relative of him would have been elected as Office-Bearers of concerned DCAs by the election processes done in those DCAs and their election would have been done by the persons found in the Electoral Rolls of those DCAs. Convassing for any candidate either in DCAs or BCA is common phenomenon in Electoral Process in any Democratic set-up and this can be illustrated that any present incumbent office-bearer makes his candidature for his re-election in the BCA on its any post in the next upcoming election of BCA persons in the Electoral Roll of BCA musts may exercise their wisdom to vote or not to vote those persons and if anyone or more of such persons in the Electoral Roll cast his/their vote in favour of such candidate, can the same could be said to be come in purview of the aforesaid Rule 42.(1)(v)? Another example in this regard is that in the Parliamentary Elections and Assembly Elections the Prime Minister & other Ministers either of Union or of States make convassing of the candidates in fray in those elections would come in purview of position of influence by holding the post of Prime Minister or Ministers of Union or States? In my view the answer would be in negative and accordingly the aforesaid allegation is held to be not covered under the said provision.

As regards to the allegation that at Present Committee of Management doesn't exist because except Mr Rakesh Kumar Tiwari, President and Mr Ashutosh Nandan Singh, Treasurer of BCA, all other executive members of COM are either ineligible or has resigned or has been removed. Mr Rakesh Kumar Tiwari is also ineligible as per conflict of interest and as FIR being Parliament Street P.S. Case No. 0029 of 2022 has been lodged for committing molestation. As per Rule 18(8) of BCA provides that Five members of the COM shall required to be constitute the quorum is concerned the same is out of the jurisdiction of the Ethics Officer.

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As regards to the allegation that Mr Rakesh Kumar Tiwari has also violated Rule 37(1) of BCA by appointing Md M Modassir as Electoral Officer from Goa, whereas Rule clearly states that it should be from Bihar. 37(1) reads "At least four weeks prior to the Annual General Meeting at which an election is to be held, the Committee of Management shall appoint an Electoral Officer, **who shall be a former member of the Election Commission of Bihar**". It is further prayed to restrain the Electoral Officer from conducting illegal election scheduled to be held on 25th Sep 2022 is concerned there is no proof that the Electoral Officer appointed for the election going to be held on 25.09.2022 was appointed by Mr. Rakesh Kumar Tiwari himself. The said appointment would have either been made by the COM or General Body of the BCA; and there is no proof to say that said appointment was not made by the COM or General Body of the BCA. Beside it the legality of the appointment of the Electoral Officer is out of purview of the Ethics Officer. Moreover, it has been pointed out on behalf of the BCA that the same issue is pending in the Hon'ble Supreme Court for adjudication. Therefore, it would be against the judicial discipline to decide this issue in the present matter in view of the judgment of the Full Bench of Patna High Court in Ram Vinay Yadav vs. The State of Bihar being Criminal Appeal (SJ) No. 431 of 2019 decided on 17th May, 2019.

As regards to the allegation of Conflict of Interest against Mr. Rakesh Kumar Tiwari on the ground that he beside holding the post of President also functions as Acting Secretary of BCA and, as per the claim of the same come under the purview of Conflict of Interest in view of Rule 42(4) of the BCA Rules & Regulations. In this regard it is appropriate that as per said sub-rule (4) no individual may occupy more than one posts of the points enumerated in the said sub-rules as a to p at a single point of time except where prescribed under the aforesaid Rules & Regulations. As per Rule 10(1)(d) of the BCA Rules & Regulations the President is authorised to delegate the function of a office-bearer, if there is any vacancy of such office-bearer or such office-bearer is in condition of indisposition until the vacancy is filled up or the indisposition ceases to another office-bearer. It has been asserted on behalf of the petitioners that Mr. Sanjay Kumar, who was elected as Secretary, BCA in its 2019 election was removed from his said post vide order dt. 15.05.2021 passed in BCA/EO/01-02 of 2020 by the Ethics Officer and then Mr. Kumar Arvind, who was at that time Joint-Secretary, BCA was delegated the power of Secretary, BCA and he was functioning as Acting Secretary beside being Joint-Secretary of BCA till he was removed

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from the post of Joint-Secretary by the Committee of Management by its resolution dt. 16.08.2021 and since then Mr. Rakesh Kumar Tiwari has been functioning as Acting Secretary besides being President of BCA though as per provisions of Rule 17(9) of said Rules & Regulations the aforesaid vacancies must be filled up by election within 45 days since the vacancies arose but the same has not been followed due to Mr. Rakesh Kumar Tiwari. Said Rule 17(9) so provides and the same has not been followed. Beside it as stated earlier as per Rule 10(1)(d) the President may delegate the function of Secretary/Joint-Secretary to another office-bearer and in my view such another office-bearer could not be President but to another office-bearer of BCA other than President because according to the Rule 18(1)(iv) no single individual have to get unfettered power in the Committee of Management ("COM") and it is duty of the Secretary to discharge the functions enumerated in clauses a to g of sub-rule (3) of the Rule 10 including to keep and maintain the minutes of the AGM/SGM of BCA and minutes of the COM's meetings; and if the same is being done by the President himself as Acting Secretary, the same could be termed to be exercising unfettered powers in the COM, and therefore, in my view come in purview of tractable conflict of interest and therefore the interest as Acting Secretary BCA by its President Mr. Rakesh Kumar Tiwari that causes the conflicts be relinquished, and accordingly I direct Mr. Rakesh Kumar Tiwari to relinquish the function of Acting Secretary BCA immediately and delegate the function of Secretary to another office-bearer of BCA. As the conflict of interest is not intractable hence the reliefs asked by the petitioners in their petition or in submission made in their behalf cannot be granted for the reasons mentioned above.

In the aforesaid terms the application is disposed of.

R Singh

(Raghwendra Kumar Singh)

Ethics Officer

Bihar Cricket Association

Copy to:

1. President, Bihar Cricket Association

Email: president@biharcricquetassociation.com

(Contd.)
R Singh

2. Bihar Cricket Association, through its Acting Secretary

Email: bca@biharcricketassociation.com

3. Chief Executive Officer, Bihar Cricket Association

Email: ceo@biharcricketassociation.com

4. Sri Rakesh Kumar Tiwari, At present President Bihar Cricket Association

Email: president.bca.rkt@gmail.com

5. Shri Krishna Murari Prasad, Advocate

Email: adv.krishnamurariprasad@gmail.com

R Singh