

LODHA COMMITTEE RECOMMENDATIONS: CAN IT FORMULATE INDIAN CRICKET?

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ABSTRACT

In last decade, the functioning and governance of Indian cricket has faced various ebb and flows. The increasing number of scams has not just degraded the quality of Indian cricket but has also made many cricket lovers lose faith in it. There has been a series of events that made the apex judicial body realize the alarming need of reforms to improvise the working of BCCI. This paper will highlight such events that led to formation of various committees to reform cricket in India. In furtherance to that, it will throw some light on the recommendations provided by the Mudgal committee, followed by the Lodha committee. There has been a continuous debate throughout the sports fraternity regarding the applicability of the recommendations which has been evaluated throughout this paper. This paper will discuss about the developments which are needed in women cricket. This paper will critically analyse the recommendations provided by the Lodha committee and would also suggest various recommendations for the betterment of Indian cricket.

I. Introduction

THE INDIAN ECONOMY is one of the fastest growing economies in the world to the young demographics of the country. India is considered to be one of the most preferred nations to host

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global sporting events like Commonwealth, Asian Games and World cups of Hockey and Cricket. Even though the national sport of the country is hockey, our nation's heart revolves around cricket. Cricket is not considered to be just a sport but a religion. High profile cricket matches like the IPL or T20 invite not only a lot attention at a global level but also contributes immensely to the economy and pride of the host nation. It is an unquestionable fact that our cricketers have been performing luminously in both home country and in foreign countries too. One of the reasons of the same is massive amount of private and public investments which flows in the associations regulating the sport. Recently there have been debates raging in favor and against the functioning of the Board of Control of Cricket in India (hereinafter referred as 'BCCI') due to the Indian Premiere League (hereinafter referred as IPL) scam which dented the national pride relating to sporting performance severely.

Background

In an unprecedented move, the Supreme Court intervened into the functioning of the BCCI. The inception of this move can be traced to the dire need of sports law in our country which time and again has been highlighted in various cases¹. It would be pertinent to mention the recent example of the IPL betting scam which shook the foundation of belief in the sanctity of the sport. In the above-mentioned case², three cricketers, S. Sreesnth, Ajit Chandila and Ankeet Chavan, who represented Rajasthan Royal in 2013 Indian Premier League, were arrested by the Delhi Police on charges of spot-fixing.

¹*KrishanLal Gera v. State of Haryana and Ors.*, (2011) 10 SCC 529, *Union of India v. Abhimanyu Tiwari*, (2016) SCC Online SC 395, *Balram Sharma v. Union of India* (2010) 15 SCC 393.

² *BCCI v. Cricket Association of Bihar &Anr.*, (2015) 3 SCC 251.

Upon further investigation, it was discovered that Vindu Dara Singh and BCCI President N. Sreenivasan's Son-in-law Gurunath Meiyappan were involved. They were arrested by the Mumbai Crime Branch³. To ensure fairness during investigation, Supreme Court suggested N. Srinivasan to step down from his position as BCCI president else it would pass verdict asking him to step down⁴.

To investigate the allegations of betting and spot fixing in the Indian Premier League (IPL), Supreme Court appointed a three member committee, which was headed by Justice Mukul Mudgal⁵. The other two members were Additional Solicitor General of India L. Nageswara Rao and former cricket umpire Nilay Dutta.

II. Recommendations of Mudgal Committee

The Mudgal Committee recommended certain noteworthy changes, chief among them was to legalise sports betting in order to reduce the element of black money. They also recommended that the players should be instructed in the local language about the ills of spot fixing and the esteemed players such as Sachin Tendulkar and Anil Kumble should guide the younger players regarding the same.⁶

The committee threw some light on lacunas in the working of existing investigating agencies. The committee was of the opinion that current agencies lacks in intelligence tools to detect a sporting fraud. BCCI's investigating wing must be properly defined in order to prevent those holding any position in BCCI to curtail or restrict

³ See report dated May 24, 2013 "Gurunath Meiyappan arrested in Mumbai", available at: <http://www.espnricinfo.com/indian-premier-league-2013/content/story/637612.html> (last accessed on 20/12/2016).

⁴ See report dated November 29, 2014 "IPL sport-fixing, Srinivasan should step down: SC", available at: <http://lex-warrier.in/2014/11/ipl-sport-fixing-srinivasan-step-sc/>, (last accessed on 28/12/2016 at 20:55hrs).

⁵ See report dated October 8, 2013 by Chander Shekhar Luthra, "Bihar cricket association to oppose Nilay Dutta's name", available at <http://www.dnaindia.com/sport/report-bihar-cricket-association-to-oppose-nilay-dutta-s-name-1900288> (last accessed on 25/12/2016).

⁶ Justice Mudgal IPL Probe Committee, Supreme Court, *A Report on allegations of Betting and Spot/Match Fixing in the Indian Premier League* (2014).

any investigation of the wing. A proper system should be developed by the BCCI for registering player agents who are well aware of the rules and regulation of the board. The criteria for qualifying to be an agent would involve an examination to test their knowledge and understanding of the rules and regulations. There would also be a background check regarding possible links of the agents with the underworld and bookies to preserve the sanctity of this game. Also, these agents should not be allowed to travel and stay with the players.⁷

IPL has succeeded in its attempt to bring forward new emerging talents from small towns and by providing them a platform to compete with foreign players. Thus it would be in the best interest of the league to keep an absolutely separate commercial entity with its own representatives from the board. The players who are either in playing eleven or in extras would not be allowed to own or have an interest in any stake in player agencies or companies involved with the game unless such interests are in nature of sponsorship. Such interest must be declared 15 days prior of accruing on such interest⁸.

Transformation from Mudgal Committee to Lodha Committee

The Mudgal committee came to the conclusion that IPL COO Sudar Raman, Chennai Super Kings' owner Meiyappan and Rajasthan Royal's owner Kundra are guilty for betting and that BCCI chief Srinivasan did not act upon the accused despite knowing their violations. The Supreme Court had agreed with the Mudgal committee report, however, it did not accept all the recommendations. The Court felt the need for the introduction of more stringent regulations and thus paved the path for another committee under the supervision of CJI, Justice R.M Lodha.

⁷*Ibid.*

⁸ *Ibid.*

The new formed committee decided to focus on three major tasks⁹providing for punishment for those who have been found guilty by the Mudgal committee, scrutinizing the role of COO Sundar Raman in the IPL spot-fixing scam and making the functioning of BCCI more transparent to avoid further stings. The committee imposed a life ban on Meiyappan and Kundra and suspended the IPL franchises, Chennai Super Kings and Rajasthan Royals for two years.¹⁰ However the players of the teams were given the liberty to be auctioned for other franchises.

The Lodha Committee had further decided that it had to understand the functioning of the BCCI in order to make it a transparent body. To achieve this task, the committee framed various questionnaires on exhaustive set of topics such as the role of BCCI's stakeholders in the board's election processes, the basis and formation of its various committees, player welfare, conflict of interest and transparency in the IPL's functioning.¹¹

As a follow up to the sent questionnaires, on 4thJanuary 2015, Lodha Committee shook the foundation of BCCI by its revolutionary reforms which changed the power structure and functioning of BCCI. Throughout its functioning, Committee received tremendous support from the Supreme Court of India. The court had given the

⁹See report dated January 2, 2017 "BCCI v. Lodha Committee: A Timeline of Events", available at: <http://www.cricketcountry.com/news/bcci-vs-lodha-committee-a-timeline-of-events-532110>, (last accessed on 06/12/2016).

¹⁰ See report dated October 6, 2016, by Sumit Chakraborty, "BCCI v Lodha Panel: All you need to know about the case", available at: <http://www.financialexpress.com/sports/bcci-vs-lodha-panel-all-you-need-to-know-about-the-case-supreme-court-cricket/408002/>. (last accessed on 06/12/2016).

¹¹See report dated January 30, 2017 by Nagraj Gollapudi, "A timeline of the BCCI and Lodha committee reforms case", available at: <http://www.espnricinfo.com/india/content/story/1030889.html>. (last accessed on 15/12/2016).

BCCI an ultimatum to adhere to the Lodha panel's recommendations for the overhaul of Indian cricket.¹²

III. Lodha Committee Recommendations

The report given by the Lodha committee was divided into two major parts. The first part of the report states its objective which has already been mentioned. The second part of the report which titled as 'Getting off the mark', critically analyses the gaps in the functioning of BCCI and state volumes about the prevalent corruption, lack of transparency, conflict of interest and such other difficulties.

To address these issues, the Lodha Committee came up with following recommendations¹³:

- a) BCCI office bearer can work for not more than two continuous terms: This recommendation is accompanied by fixing the retirement age at 70, in order to avoid the management of the sport by elderly who could barely speak, which indeed is the current trend. Also those administrators who are declared as insolvent, or of unsound mind or charged with criminal charges, or who hold any office or post in a sports or athletic association or federation apart from cricket are to be eliminated.
- b) President of the BCCI cannot hold his post for more than two years.
- c) Proposition of one vote per state and no proxy voting: This recommendation would take away the monopoly of the suppressing states like Maharashtra, which currently exercises multiple votes owing to multiple associations.

¹² See report dated January 02, 2017, "BCCI v Lodha Committee", available at: <http://www.firstpost.com/sports/bcci-vs-lodha-committee-all-you-need-to-know-before-the-supreme-court-hearing-today-3036764.html>. (Last accessed on 16/12/2016).

¹³ Supreme Court, Report of Supreme Court Committee on Reforms in Cricket [Volume 1], available at: http://www.sportstarlive.com/multimedia/archive/02682/lodha_full_2682954a.pdf, (Last seen on 12/01/2017).

- d) Separate governing body for IPL with certain level of sovereignty to be made available to IPL as a governing body. The committee has also suggested to form a players association and has called for a “steering committee”. The intention behind the same is to enforce grass root level change in the structure of BCCI.
- e) Legalizations of betting: The panel has proposed to legalize betting. It has also recommended that BCCI Officials shall disclose their assets to the boards, so that they could be certain about the non-involvement of BCCI officials in betting.

Critical Analysis of the Recommendations

The board was never excited with the implementation of these reforms as it would affect the working of the board to a great extent. Though the board had accepted and promised to take up the reforms but they failed miserably in keeping their promise and implementing these measures.¹⁴ Hon’ble Supreme Court is forcing the board to implement these recommendations. In a complete resistance to what Supreme Court has stated, BCCI has rejected several recommendation of the panel, as in the opinion of the Board such recommendations doesn’t deem fit and they are subject to criticism.

The committee had recommended a one state-one vote system which cannot be properly implemented in India. The reason can be because of instances where some politically stronger states would dominate over the weaker states, thus encouraging corruption. Reliance can be placed on one country-one vote system which was adopted by FIFA that led to 2015 FIFA corruption scam in which countries having very little or no football activities were accused of taking bribe from FIFA officials and countries with more football

¹⁴ *Ibid.*

activity, to vote in a specified pattern.¹⁵ In this way, votes of politically weak states can be tampered by stronger states resulting into an undesirable situation.¹⁶ In context of India, the votes for politically weak states such as North Eastern states can be tampered by politically strong states such as Gujarat and Maharashtra. Therefore, one state-one vote cannot be implemented in a country like India.

The most important recommendation proposed by the committee was to legalize betting in India. Legalizing betting might fetch a lot of revenues to the government and will pull up the GDP of our nation but it will also significantly increase match fixing in the game of cricket. Even if the government has not legalized betting, it is still prevalent in the nation. As per the recent survey¹⁷, betting money involved in IPL-7 and IPL-8 were around 7000 crores and 12000 crores, respectively. Illegalization of betting has led to flow of black money in the economy.

Furthermore, it was also suggested by the committee that Comptroller and Auditor General (CAG) should be included as a nominee in the managing committee of the society. This is contrary to the constitution of BCCI as it does not permit a non-member to be involved in the managing committee meeting of the society.¹⁸ Also, according to rules framed by the ICC that if the governmental

¹⁵ See report dated January 05, 2017 by Vijay Lokapalli, "Lodha report addresses key areas that need reform", available at: <http://www.thehindu.com/sport/cricket/lodha-report-addresses-key-areas-that-need-reform/article8065450.ece>. (last accessed on 18/12/2016).

¹⁶ See report dated August 08, 2016 "BCCI to file review petition against verdict of Supreme Court", available at: <http://www.espnricinfo.com/india/content/story/1044013.html>. (last accessed on 20/12/2016 at 14:30 hrs).

¹⁷ See report dated August 08, 2016 "IPL Betting Dossier with One India: Bookies put in Rs. 7000 crores last year", available at: <https://www.mykhel.com/cricket/oneindia-exclusive-ipl-betting-dossier-bookies-put-in-rs-7000-crore-in-2014-019255.html>. (last accessed on 23/12/2016).

¹⁸ See report dated October 21, 2016 Express Web Desk, *BCCI v Lodha Committee: Everything you need to know*, Indian Express (21/10/2016), available at: <http://indianexpress.com/article/sports/cricket/lodha-committee-panel-everything-you-need-to-know-3094827/>. (last accessed on 21/12/2016).

representatives are included as full time member of the Board then ICC holds the power of derecognizing such domestic cricket board of a country and at a global level, ICC will treat CAG representation as a governmental interference.

The committee also strongly recommended restricting the number of advertisement shown on a television during a cricket match live telecast as it is of the opinion that BCCI is unnecessarily showing large number of advertisement and should curb down its frequency. It was clearly stated that advertisement should be telecast to the extent of drinks and break session and unnecessary advertisement after every over and fall of wicket should be avoided. However, if the frequency is reduced then it would affect the income of board which would lead to heavy losses. The BCCI being a self-funded organization does not depend on government for any source of revenue and such an act would hamper its earnings. The board needs to run training programs and search for talented players in small towns and villages which requires huge amount of funds and advertisements are its major chunk of revenue.¹⁹ Therefore, this recommendation of the committee will restrict the funding of the board and it would be difficult for the board to perform its function.

The Board did not welcome the proposals of the committee regarding the capping of the age limit to 70 years for the officers of Board. As per the Board, an office bearer is elected through a democratic format and therefore proposal is subjected to the criticism.²⁰ If a member has attained the age of 70 years that doesn't mean he has become inefficient to perform the given task. If this

¹⁹ See report dated January 08, 2016 "BCCI refuses to Implement Lodha Committee recommendation, News world India", *available at*: <http://newsworldindia.in/sports/cricket/bcci-files-reply-in-sc-on-lodha-committee-recommendations/230693/>. (last accessed on 14/12/2016).

²⁰ See report dated October 06, 2016 "Supreme Court to BCCI: Set Lodha panel's reform rolling or court will do so tomorrow", *available at*: <http://indiatoday.intoday.in/story/lodha-vs-bcci-suprme-court-hearing-status-report-anurag-thakur/1/781357.html>. (last accessed on 20/12/2016).

recommendation is implemented then a very few people who have a good experience will be left in the committee which will further hamper the working of the committee.

Many news agency, NGOs and social groups have demanded to include BCCI under the purview of RTI but the board always had the ways to deal with it. The same was also recommended by the Lodha committee in order to make BCCI publicly accountable and also to build public trust in the working of board. However, the BCCI was of opinion that mere performing public function would not be a sufficient cause to make RTI applicable on it.²¹ The board stated that it is a society registered in Tamil Nadu and did not receive any funding from the government.

IV. Suggestions

As in the recent past, the malpractices and misconducts of BCCI has come up to the surface, Judiciary, took the initiative to curb down the monopolistic approach of the Board, which has been discussed in detail in the aforementioned part. Apart from the recommendations proposed by the Lodha committee, the following suggestions which are in line with Lodha committee's recommendation could help in improvising BCCI's working:

- i. Betting should be legalized but a threshold limit for a person must be set in order to limit the amount of betting.²² It can be done by registered individuals through their authorized online accounts for which proper rules should be drafted. Betting shall be legalized except for players, BCCI officials or administrators covered under BCCI and IPL regulations.²³

²¹ See report dated August 08, 2016 by N R Mohanty, "After year of resistance, will Lodha Panel report finally force BCCI to come under RTI Act", *available at*: <http://www.firstpost.com/sports/after-years-of-resistance-will-lodha-panel-report-finally-force-bcci-to-come-under-rti-act-2575444.html>. (last accessed on 21/12/2016).

²² See report "Lodha committee: Recommendation and Analysis", *available at*: <http://iasscore.in/special-details-30.html>. (last accessed on 20/12/2016).

²³ See report dated January 08, 2016 by Prमित Bhattacharya, "Should betting in sports be legalized in India", *available at* <http://indianexpress.com/article/sports/cricket/lodha-committee-panel-everything-you-need-to-know-3094827/>. (last accessed on 21/12/2016).

- ii. The nomination of CAG as managing committee member of the society can be made without affecting any international obligations, if no voting rights are assigned to CAG. By this way, CAG can become a member of the Board to ensure that proper books of accounts are being maintained and also India will not violate any international agreement.
- iii. The advertisements during a live telecast of cricket match shall be allowed after every five overs, fall of wicket, drinks or lunch, instead of ad breaks given after an over is finished.
- iv. Apart from it, all the sports bodies which enjoy the right to use 'India' as the team's name should come under the purview of RTI.²⁴ It is performing a public function of selecting the national and international team to represent the nation at a global front. It regulates cricket in India of all forms at all levels. The decision of *Zee Telefilms v. Union of India*²⁵ requires some reconsideration on the ground that it performs the public function involving millions of funds and arbitrary using its power in recent past. Therefore, it should be considered State under Article 12 of Indian Constitution.²⁶
- v. A separate body must need to be constituted to manage the affairs of IPL which will have a completely different set of rules. The new committee for IPL should have the members from CAG which will keep the check and balances on the financial transactions.
- vi. There is no representation for women in BCCI. In order to promote women empowerment and participation in BCCI, few seats should be reserved for women.
- vii. The board should increase its funding for promoting women cricket team and provide proper infrastructure, equipment and

²⁴ See report dated January 05, 2016, "Here's why BCCI should come under Right to Information", available at <http://www.mid-day.com/articles/heres-why-bcci-should-come-under-right-to-information/16832165>, (last accessed on 21/12/2016).

²⁵ (2005) 4 SCC 649.

²⁶ M. Suresh Benjamin & Sanu Rani Paul, *Legal Status of BCCI as Instrumentality of State under Article 12 of Indian Constitution*, 7(1) NALSAR Law Review 70 (2013).

experienced coaches for their training. The women team has always been ignored as it failed to draw the attention of mass media. The training programs and talent hunts in smaller towns for women cricket team should be encouraged.

- viii. Many members hold the post in BCCI for multiple terms and various occasions without any ceiling limit. Tenure should be fixed for the members so as to give chance to the other members. The board should also set qualification and disqualification for a person to be a member and its removal.

V. Conclusion

Cricket is no longer a gentleman's game which it used to be. Even though the IPL might have given fame, success and money to many upcoming players but it has also opened a window for gambling, spot fixing and underworld activities in the country. To overcome such problems, Indian judiciary has made several attempts to develop sports law in the nation and one of such attempt was the appointment of Lodha committee. Lodha committee has come up with tremendous recommendations which will not only put checks and balances on the working of board but will also change its performance. Still, the legality of some recommendations can be challenged and their reconsideration is required to introduce a better law in the nation.

The board need to stop opposing to the recommendations and should adopt them with some necessary modifications for the betterment of cricket in India. The disputes between Lodha committee and BCCI must be addressed by the Hon'ble Supreme Court with broad minded approach. The Supreme Court shall finally decide the fate of BCCI keeping in mind the consequences on the Board and the game itself.
