

To

The Ombudsman-cum-Ethics Officer,
Punjab Cricket Association, IS Bindra Stadium,
Mohali.

Sub :- Representation for withdrawing/setting aside /recalling order dated 11.04.2022 (**Annexure A-1**) passed by the Ld. Ombudsman cum Ethic Officer, Punjab Cricket Association, in complaint no.1 of 2021 titled as District Cricket Association, Mohali vs G.S. Walia & others, vide which the respondent no.1 & 2 were debarred for life from involvement with the game of Cricket, respondent no.3 (Mohali Cricket Association) was concluded to be not recognized by the Punjab Cricket Association, Mohali and further CEO, Punjab Cricket Association, Mohali was granted liberty to pass appropriate order with regard to the alleged funds released to Mohali Cricket Association and for deciding the matter afresh after giving reasonable opportunity to be heard on merits after providing due opportunity to the applicants, in the interest of justice and fair play.

RESPECTFULLY SUBMITTED:-

1. That the complaint no.1 of 2021 under sub rule 2 & 3 of Rule 46 of the rules and regulation of the Punjab Cricket Association was filed by District Cricket Association, Mohali against G.S. Walia, M.P. Pandove and Mohali Cricket Association. The said complaint was decided by Justice H.S. Bhalla (Retd), then Ombudsman-cum-Ethic Officer, Punjab Cricket Association, Mohali vide order dated 11.04.2022 wherein respondent no.1 (G.S.Walia) & 2 (M.P.Pandove) were debarred for life from involvement with the game of Cricket, respondent no.3 (Mohali Cricket Association) was concluded to be not affiliated with the Punjab Cricket Association, Mohali and further CEO, Punjab Cricket Association, Mohali was granted liberty to pass appropriate order with regard to the alleged funds released to Mohali Cricket Association. Copy of order dated 11.04.2022 is attached as **Annexure A-1**.
2. That on 12.03.2022 during proceeding the present matter, the respondents had moved two applications (i.e. For dismissal of the complaint & for directing the CEO to supply necessary information/documents). The matter was adjourned to 26.03.2022 for filing reply to the said applications, however, the Ombudsman-cum-Ethic Officer vide order dated 12.03.2022 has also appointed Sh. R.S. Sachdeva son of Sh. Mohinder Singh and Sh. P.M.S. Banga son of Sh.

G.S. Banga as conveners for the selection committee for running the affairs of Cricket in the district of Mohali instead of the respondent no.3 till the decision of the case. On 26.03.2022, reply was filed by the complainant to the application for dismissal of the complaint and copy of the same was supplied to the respondents and the matter was adjourned to 09.04.2022 for consideration on the said applications.

3. That in beginning of April 2022, the respondents came across a video clip wherein the conveners appointed by the Court were present at the office of the applicant/complainant and Sh. R.S Sachdeva was seen making allegations against the respondents. It is pertinent to mention here that the conveners were supposed to be neutral persons appointed by the Ombudsman for taking care of the game of Cricket in Mohali but the video clip clearly showed that the conveners were hand in glove with the complainant. Therefore, on 09.04.2022, the respondents filed two move applications (Application for recalling of order dated 12.03.2022 and for permitting the Mohali Cricket Association to run affairs of Cricket in District Mohali and for rejection of replies and/or any documents filled by Deepak Sharma, CEO Punjab Cricket Association on behalf of the respondent no.4. The Ombudsman-cum-Ethic Officer heard the arguments on all the applications filed by the respondents and told the counsel for the respondents that the order on the three applications is required and next date will be communicated to the parties later.
4. That on 10.4.2022, the respondents saw an article in Chandigarh tribune regarding selection of U-16 Team for Punjab State Inter District U-16 Tournament being conducted by the complainant association. The Complainant association was not affiliated with the PCA. Therefore, they had no right to conduct such trials. The counsel for the respondents immediately approached then Ombudsman cum Ethic Officer through email and filled application for restraining the complainant association from conducting the trials. Copy of email sent to Ombudsman cum Ethic Officer is attached as **Annexure A-2**.
5. That even from the bare perusal of the zimni orders dated 12.03.2022, 26.03.2022 and from the email dated 11.04.2022 sent by the counsel for the respondents, it is crystal clear that the matter was listed/pending for consideration on the said applications and not on the main complaint. Moreover, evidence was still to be recorded on the present matter for just decision of the case. However, to the utter surprise of the respondents, the Ombudsman cum-Ethic-Officer decided the matter vide order

11.04.2022 without giving any opportunity to the respondents to lead evidence or to argue the case on merits. Copy of zimni order dated 12.03.2022 & 26.03.2022 is attached as **Annexure A-3 & A-4.**

6. That the Ld. Court failed to appreciate the fact that out of 20 District Cricket Associations affiliated with the Punjab Cricket Association, around 14-15 District Association do not have any affiliation certificate issued by the Punjab Cricket Association. However, all the District Association are affiliated to the Punjab Cricket Association, Mohali but due to order dated 11.04.2022 which has been passed without giving opportunity to the respondents to lead evidence in this regard also, the respondent no.3 (Mohali Cricket Association) has been barred by the Punjab Cricket Association and even name of the respondent no.3 has been removed from the official website of the Punjab Cricket Association. Therefore, the impugned order dated 11.04.2022 needs to be set aside and reasonable opportunity be given to the respondents to lead evidence in the present matter.
7. That order dated 11.04.2022, **Annexure A-1**, is in gross violation of principle of Natural Justice, Fair Play and Equity. The Office of Ombudsman cum Ethic Officer, Punjab Cricket Association, Mohali is presided over by a person with vast Experience on the Judicial Side and it is always expected from such an authority to follow basic principles of Jurisprudence of "hear the other side too" before visiting the other side with an adverse order laced with evil consequences. The then Ombudsman cum Ethic Officer, Punjab Cricket Association, Mohali while passing impugned order dated 11.04.2022 went against settled principles of Audi alteram partem (or audiatur et altera pars) meaning "listen to the other side", or "let the other side be heard as well". It is the principle that no person should be judged without a fair hearing in which each party is given the opportunity to respond to the evidence against them.
8. That the soul of natural justice is fair play in action and it is held in highest esteem throughout the democratic world, wherever rule of Law is guaranteed to its Citizen. Fair play in action mandated that before any prejudicial or adverse action is taken against a person, he must be given an opportunity to be heard.
9. The Office of Ombudsman-c-Ethics Officer for, inter alia, Punjab Cricket Association has been created by none else than Supreme Court of India and only a person with vast experience on the Judicial side (a Retired

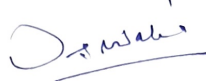
High Court Judge/ Retd. Distt & Sessions Judge) was designed to occupy that office. It necessarily postulates that basic principles of jurisprudence, dispensation of justice and holding inquiries etc. are to be followed by Ombudsman-cum-Ethics Officer, but in the case in hand, the then Ombudsman- cum-Ethics Officer gave a total go-bye to all such cherished principles and axiomatically settled norms of conducting inquiries.


10. As enumerated above and so also herein after, the then Ombudsman-cum-Ethics Officer PCA acted totally unfairly and his procedure did not match with laid down principles. His impugned actions belie and violate "fairness in all the circumstances" and 'fair play in action'. When test of applicability of doctrine of natural justice and fair play has to be applied, there can be no distinction between a quasi-judicial function and an administrative function. The aim of both administrative inquiry as well as quasi-judicial inquiry is to arrive at a just decision and if a rule of natural justice is calculated to secure justice, or to put it negatively, to prevent miscarriage of justice, it has to apply to all Judicial, quasi-judicial and administrative inquiries. It must logically apply to all. No distinction can be made between one and the other and the then Ombudsman-cum-Ethics Officer PCA had no right or authority, prescribed or inherent, to flout principles of Natural Justice and Fair play. It is axiom that sometimes an unjust decision in an administrative inquiry may have far more serious consequences than a decision in a quasi-judicial inquiry and hence, the rules of natural justice must apply equally wherever the action entails -Civil consequences. In **Associated Cement Companies Ltd. v. P. N. Sharma & Anr [1965] 2 S.C.R. 366 Supreme Court of India** approvingly referred to the decision in **Ridge v. Baldwin 1964 AC 40** and, later in **State of Orissa v. Dr. Binapani 1967 (2) SCR 625** observed that: "If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. **Meneka Gandhi Vs Union of India 1978 SC 597** an 11 Judges strong bench of Supreme Court has upheld applicability of Natural Justice and Fair play in all such matters where an authority is to proceed against a person affecting his Civil rights. The impugned order has visited the respondents with evil civil consequences without having been afforded with any opportunity to represent or defend themselves

As no opportunity, much less reasonable opportunity, was granted to the applicant in the abovesaid matter it is prayed to your good self to

kindly sympathetically consider this application and set aside the order dated 11.04.2022 and the operation of the impugned order dated 11.04.2022 may kindly be stayed till the decision of the present application and abovesaid, be heard on merits after providing due opportunity to the applicant, in the interest of justice and fair play.

Mohali
Dated:


(G.S. Walia)


(M.P. Pandove)