

**IN THE OFFICE OF THE OMBUDSMAN-CUM-ETHICS OFFICER**  
**PUNJAB CRICKET ASSOCIATION, SAS NAGAR MOHALI**

**Miscellaneous application No. 1 dated 17.6.2022**

**Decided on 22.08.2024**

**(In complaint No. 01 of 2021 decided on 19.05.2022)**

**Subject:** Application to withdraw, suspend and keep in abeyance the Order dated 19.05.2022 (Annexure A-1) passed by the Ld. Ombudsman-cum-Ethics Officer, PCA, SAS Nagar whereby the Applicants namely Sh. M.P. Pandove (Applicant No. 1 / Respondent No. 1 in Complaint Ref No. PCA/2021/37099) and Sh. RP. Pandove (Applicant No. 2 / Respondent No. 2 in Complaint Ref No. PCA/2021/37099) have been proceeded ex-parte and Applicant No. 1 has been debarred for life from the game of cricket and the Applicant No. 2 has been debarred from participating in the affairs of the Punjab Cricket Association.

**Present:** Sh. B.S. Gurm, Advocate / Counsel for Applicants in Miscellaneous application No. 1  
 Respondent - Sh. Piyush Rana- Ex-parte

**Miscellaneous application No. 2 dated 17.6.2022**

**Decided on 22.08.2024**

**(In complaint No. 01 of 2021 decided on 19.05.2022)**

**Subject:** Representation for withdrawing/setting aside/recalling and keep in abeyance order dated 19.05.2022 (Annexure -A-1) passed by the Ld. Ombudsman cum Ethics Officer, Punjab Cricket Association, Mohali in case titled as "Piyush Rana vs M.P. Pandove & Others vide which the respondent no. 3 (G.S. Walia) has been debarred from Life from game of Cricket and respondent no.4 (Janak Raj Sachdeva) has been debarred from participating in the affairs of Punjab Cricket Association.

**Present:** Sh. Anuj Ahluwalia, Advocate / Counsel for Applicants in Miscellaneous application No. 2  
 Respondent - Sh. Piyush Rana- Ex-parte

**ORDER**

1. By virtue of the instant common order, I would like to dispose of both Miscellaneous applications referred to above, in the head note as both these applications are outcome of the order dated 19.05.2022 passed by the then worthy Ombudsman-cum-Ethics Officer whereby complaint no. 1 of

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2021 captioned as "Piyush Rana Vs. M.P. Pandove and Others" was finally decided, the operative part of which reads as under:

*"All the questions, as emerged out from the record of the PCA as well as from the documents produced by the complainant and the respondents and CEO of PCA, which have been discussed above, there is no escape from the conclusion that Patiala Cricket Association and earlier Patiala District Cricket Association were not recognized by the PCA in any manner. Therefore, I have no other option but to observe finally that in view of what has been discussed above and also considering the records of the PCA and the other facts put forward by all the parties, present conflict is liable to be declared as Intractable and I order accordingly. While exercising powers under Rule 46(3) (b) of Rules and Regulations of the PCA, as they (respondents No. 1 and 3) have exercised their powers as office bearers and also released the funds to both the associations which were not recognized by the PCA, in any manner, they are debarred for life from involvement with the game of cricket. So far as other respondents i.e. Shri R.P. Pandove and Shri Janak Raj Sachdeva, who were receiving funds as office bearers of Patiala Cricket Association, to which they were not entitled, shall not participate in the affairs of the Punjab Cricket Association, in any manner.*

*Before I part with this order of mine, it is made clear that the CEO would be at liberty to pass appropriate order to recover the amounts which were released to Patiala District Cricket Association and Patiala Cricket Association in spite of the fact that both the associations were not affiliated with the PCA, in accordance with the Rules and Regulations."*

2. Aggrieved against the aforesaid order dated 19.05.2022, Applicants i.e. the Respondents 1 to 4 in main complaint preferred the instant Miscellaneous applications 1 and 2 for the suspension/withdrawal/review of the order dated 19.05.2022 on the following grounds:

(a) That Ld. Ombudsman-cum-Ethics Officer disposed of / decided the complaint vide order dated 19.05.2022 in the absence of the applicants, as detailed in Para No. 1 of this order.

(b) That the order dated 19.05.2022 is violative of the principle of **Audi alteram partem** as no opportunity of being heard has been provided to the any of the applicants.

*Janak Raj Sachdeva*  
That the complaint moved by Sh. Piyush Rana was scheduled for 14.05.2022 and on the said date a request for adjournment was made and communicated vide email dated 13.05.2022 by the counsel for applicants no. 1 and 2 to the Ld. Ombudsman-cum-Ethics Officer. Though it was received in the office but no response or intimation was given to the Applicant No. 1 and 2 or his representative or advocate and entire proceedings were conducted in a perfunctory manner. The order was passed in their absence. Further, in the order dated 19.05.2022, it reveals that issues

were also framed however, there is no proceeding or order sheet to indicate the precise and exact date of the framing of issues.

(d) That there are no record/proceedings recorded on 14.05.2022 by the Ld. Ombudsman-cum-Ethics Officer, the ex-parte order dated 19.05.2022 was communicated to the Chief Executive Officer, PCA Mohali on 20.05.2022, who further conveyed it to the Ld. Counsel for the applicants vide email dated 22.05.2022. In fact, the nomination for the election of the members of the Apex Council and Office Bearers of the Punjab Cricket Association was scheduled for 19.05.2022 whereas the scrutiny of the nomination was fixed for 20.05.2022. The order dated 19.05.2022 was passed just to defeat and cause preceded of the Applicant No. 2 who was a voting member and as a consequence of the aforesaid order dated 19.05.2022, Applicant No. 2 was made ineligible to voting, proposing or casting his respective choice of candidate and;

(e) Lastly, the Patiala Cricket Association was not even a party to the complaint dated 21.06.2021 filed by Sh. Piyush Rana, even then, the it was held not to be affiliated with the Punjab Cricket Association, Mohali.

3. Notice of the both Miscellaneous applications was given to Sh. Piyush Rana, Respondent (Complainant in Main Complaint) and on the sum of the dates fixed in Miscellaneous applications he appeared in person and filed reply to both the Miscellaneous applications submitting that review representation is not legally maintainable in view of the Rules and Regulations of the Punjab Cricket Association, as the Constitution of the Association nowhere provides the remedy of the review and further that no case is made out for a review of final order dated 19.05.2022, which is otherwise based on cogent reasoning and the documents available on records. Moreover, applicants were given ample opportunity of hearing and it was only thereafter, order dated 19.05.2022 was passed. He further submitted that the applicants deliberately chose to avoid the proceedings pending before the then Ld. Ombudsman-cum-Ethics Officer and subsequently, moved the present applications. Since the respondents have been found guilty of the irregularities and misuse the funds, they have rightly been debarred vide order dated 19.05.2022. He, accordingly prayed for the dismissal of both the Miscellaneous applications.

4. Rejoinder to the reply has been filed by Sh. B.S. Gurm, Representing the Applicants of Miscellaneous application No. 1, whereas rejoinder to the reply by the Applicants Sh. Anuj Ahluwalia, Advocate for Applicants in Miscellaneous application no. 2 has been filed, denying the averments made in the reply and reiterating those contained in their respective Miscellaneous applications.

5. I have heard the Ld. Counsel for the Applicants and have gone through the records available.

*Gurpreet A*  
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6. It has been vivaciously argued by the Ld. Counsel for the Applicants in Miscellaneous application No. 1 Sh. B.S. Gurm that the order dated 19.05.2022 passed by the then Ld. Ombudsman-cum-Ethics Officer is absolutely against the principle of natural justice and fair play. The principle ***Audi alteram partem*** which means “hear the other side” or “no man should be condemned unheard or both the sides must be heard before passing any order” has been blatantly violated resulting in travesty of justice. The aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. At this juncture, the Ld. Counsel has reiterated the various instances which have been unfolded by him in by the applicants of the Miscellaneous application(s) particularly pointing it out that earlier the case was fixed for the evidence of the parties for 23.04.2022. Since the Ld. Presiding Officer was not available on 23.04.,2022, the case was taken up on 21.04.2022 and adjourned to 14.05.2022 for the purpose already fixed and on 14.05.2022 the Ld. Counsel for the Applicants was not available and he moved an adjournment slip on 13.05.2022 through an email which was never considered and the earlier order whereby the case was fixed for the evidence of parties was recalled and reserved for orders. Thus, the respondents in the main complaint i.e. applicants of the instant Miscellaneous applications were condemned unheard. Even, no intimation whatsoever also given either to the Ld. counsel who has sought adjournment or to the parties being represented by him.

7. As regard the maintainability of the instant Miscellaneous applications it has been submitted by the Ld. Counsel for the Applicants that it is well settled proposition of law, that where no remedy by way of appeal, revision or any other mode is available with a party aggrieved of any order, the review is legally permissible. To buttress this contention, the Ld. Counsel has placed reliance of the judgments of the **Hon’ble Apex Court** in passed in “**Greater Noida Industrial Development Authority Vs. Prabhjit Singh Soni and Anr. - Civil Appeal No. 7590-7591 of 2023 decided on 22.02.2024**”, as well as, “**Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others – 1981 Supreme Court Cases (L&S) 309**”.

8. While endorsing the arguments put forth by Sh. B.S. Gurm, Advocate and making an addition thereto, the Ld. Counsel Sh. Anuj Ahluwalia has stressed that the worthy Ombudsman-cum-Ethics Officer, had not only recalled his order dated 23.04.2022 vide his subsequent order dated 14.05.2022 dispensing with recording of the orders but also adopted a different view, a judicial notice of which can be taken about the procedure being carried in another case captioned as “Ashok Singla Vs. Bathinda District Cricket Association and Others” in which after framing issues the case was fixed for arguments and the witnesses were subjected to cross examination beside tendering various documents. Whereas in the instant case, the recording of evidence is dispensed with and the complaint was decided. Even the order dated 14.05.2022 was not uploaded or conveyed to the parties.

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9. While concluding their arguments the Ld. Counsel(s) of the applicants has submitted that the order dated 19.05.2022 deserves to be reviewed, recalled or dispense with and the original complaint requires to be decided afresh.
10. I have given a thoughtful consideration to the various submissions made by the Ld. Counsel(s) for the applicants, the pleadings, as well as the judgments cited during the course of arguments.
11. Before dealing with various contentions, it would be desirable to deal with the question with regard to the maintainability of the instant Miscellaneous application(s). As per Chapter 9 Article 48(3) of the Memorandum of Articles of the PCA, Mohali the decision of the Ld. Ombudsman-cum-Ethics Officer is final and this provision reads as under:

*"The decision of the Ombudsman shall be final and binding and shall come into force forthwith on being pronounced and delivered"*

12. There is also no provision made specifically in the Memorandum of Articles with regard to the powers of Ombudsman-cum-Ethics Officer to entertain a review of its own order. In case "Greater Noida Industrial Development Authority Vs. Prabhjit Singh Soni and Anr." (supra), the distinction between a procedural review and a review on merits was discussed by the Hon'ble Supreme court, in which, it was observed that the expression "review" is used in two distinct senses, namely (1) a procedural review which is either inherent or implied in a court or Tribunal to set aside a palpably erroneous order passed under a misapprehension by it, and (2) a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. Obviously, when a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every court or Tribunal. While making this observation the Hon Apex Court relied upon the judgment rendered in "Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others" case.

13. It is true that power of review has to be expressly conferred by a statute but it has been observed that expression review is to be considered in two different senses i.e. a procedural review and on merits when an error is sought to be corrected is one of law and is apparent on the face of record. The scope and jurisdiction of review are very limited and in this regard undersigned cannot lost sight of the latest proposition of law on account of the mere reason that they Respondents No. 1 and 2 in the original complaint and Applicants in Instant Miscellaneous application No. 1 have been proceeded against ex-parte or their counsel was not there to argue the matter before the then worthy Ombudsman-cum-Ethics Officer. In "Kapra Mazdoor Ekta Union Vs. Birla Cotton Spinning and Weaving Mills Ltd. & Anr., (2005) 13 SCC 777" a question arose whether a quasi-judicial authority is vested with a power to invoke procedural review in which it was held as under:

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"19. Applying these principles, it is apparent that where a Court or quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi-judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits (sic ascertains whether it has committed) a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. *Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked.* In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. *He has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that it vitiated the proceeding and invalidated the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his.* In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. In "Grindlays Bank Ltd. vs. Central Government Industrial Tribunal and others", it was held that once it is established that the respondents were prevented from appearing at the hearing due to sufficient cause, it followed that the matter must be re-heard and decided again.

14. A glance at the aforesaid observation transpires that the procedural review is permissible only in cases where the decision is rendered by the quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, in which, the power of procedural purview may be invoked but in the instant case, neither there was any such occasion nor it falls within the preview of any of the circumstances enumerated above. Rather, on presentation of complaint, notice was issued to the present applicants. They appeared and filed written reply to the complaint. Thereafter, the case was decided. Though, it emerges from the interim orders pointed out by the Ld. Counsel for the applicants that the case was fixed for evidence of parties and said order was subsequently recalled but it is an undeniable fact that the complaint was fixed for 14.05.2022 for the evidence of the parties and on the day, for the reasons known to the Applicants in Miscellaneous

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application No. 1, they did not appear before the worthy Ombudsman-cum-Ethics Officer on 14.05.2022 rather, an adjournment slip was moved through an email on 13.05.2022 for adjourning the matter for four (4) weeks which stood declined on 14.05.2022 and the order was recalled. Subsequently, order dated 19.05.2022 was passed ex-parte qua applicants of the Miscellaneous application No. 1. Here it would be appropriate to mention that just moving an adjournment slip does not mean the Ld. Counsel or his party stands absolved of liability to appear and such a request can only be considered by concerned tribunal, authority or forum and it is not binding upon it. If at all, the Ld. Counsel was not available due to any reasonable and/or plausible cause, he should have asked his party to appear on the date fixed to know the latest position of the case or to make a personal request. Moreover, it is the party who should be aware of the proceedings and to defend the same. There is no duty cast upon the court, tribunal or authority to apprise the next date to counsel of the party in response to the adjournment slip, especially when proceedings are pending for the last considerable period. In the instant Misc. application No. 1, the Ld. Counsel did not opt to appear after 23.08.2022, though, the matter was adjourned for the different purposes and just at the request of the counsel appearing in the other Miscellaneous application which is also outcome of the same order dated 19.05.2022, the matter was adjourned. It was only on 06.04.2024, Sh. B.S. Gurm, Advocate appeared on behalf of the Applicants in Miscellaneous application No. 1.


15. As far as the recalling of order dated 19.05.2022 is concerned, the procedure for the disposal of the complaint is to be adopted by the Ld. Ombudsman-cum-Ethics Officer as provided in Article 48(1) of the Constitution of the PCA. It cannot be said that the principle of ***Audi alteram partem*** is violated. Neither any document(s) have been annexed with the instant Miscellaneous applications nor the detailed description thereof has been given in it, in respect of the document(s), which the applicant(s) intends to produce or could not produce earlier on record. Similarly, no such evidence also could be pointed out during the course of arguments.
16. So far as the contention of the Ld. Counsel Sh. Anuj Ahluwalia to the effect that a different procedure is being adopted as in the other case pending for disposal, the case has been fixed for evidence after framing of issues is concerned, it is suffice to say that each case has its own facts and circumstances and the procedure is to be evolved or adopted by the Ombudsman-cum-Ethics Officer for the disposal thereof and in the instant case, Ld. Ombudsman-cum-Ethics Officer deemed it proper to decide the matter on the basis of pleadings and documents available on record when particularly the Ld. Counsel for the applicants in Misc. application No. 1 did not opt to appear. If the applicants were so cautious about the election of the Apex Body, they should have appeared before the concerned court on the date fixed to pursue or defend the matter. Moreover, the order dated 14.05.2022 was passed in the presence of the Complainant as well as Sh. Anuj Ahluwalia representing the present Applicants in Miscellaneous application No. 2. The mere fact that order dated 14.05.2022 was not uploaded does not ***ipso-facto*** mean that it was not passed on said date.

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17. During the course of arguments, it was also pointed out that the order dated 19.05.2022 also adversely affects the Patiala Cricket Association. Though, it was not a party to the original complaint yet it has been held that it was not affiliated with the Punjab Cricket Association. In this regard, it is suffice to observe that Patiala Cricket Association has not come forward and did not opt to challenge the order dated 19.05.2022 which leads to draw an inference that it is not aggrieved of the order dated 19.05.2022. The applicants cannot derive any benefit on this count.
18. No other point was raised by either of the Ld. Counsel for the Applicants in both the Misc. applications.
19. Taking into consideration all the aforesaid aspects as well as the discussion made, both the Miscellaneous applications No. 1 and 2 dated 17.06.2022 are not sustainable in the eyes of law and finding no merits therein, the same are hereby dismissed.
20. A copy of this order be annexed with the other connected file. Both the Misc. application files complete in all respects be consigned to record room. The original file be returned.

PRONOUNCED

Date: 22.08.2024

  
(Jaspal Singh) 22/8/24  
Former Judge Punjab & Haryana High Court, Chandigarh  
Ombudsman-cum-Ethics Officer, PCA