

**BEFORE JUSTICE VINEET SARAN
FORMER JUDGE, SUPREME COURT OF INDIA
ETHICS OFFICER
THE BOARD OF CONTROL FOR CRICKET IN INDIA**

Complaint No. 01/2023

In re:

Complaint dated 29.01.2023 received from:

Mr. Sanjeev Gupta

S/o Late Shri M.L. Gupta

26, Kailash Park, Geeta Bhawan, Indore, MP – 452001

Email ID: sanjeevmlgupta@outlook.com

...Complainant

In the matter of:

Mr. Chandrakant Pandit

Email: cpcricketclinic@gmail.com;

cs@knavcpa.com;

business@kkr.in

...Respondent

ORDER

1. This complaint has been filed by Mr. Sanjeev Gupta against the Respondent Mr. Chandrakant Pandit, alleging Conflict of Interest, primarily on the ground that the Respondent is discharging the functions of the Team Coach of a Member Association being Madhya Pradesh Cricket Association (MPCA) and at the same time he is



discharging similar functions as the Team Coach of an IPL franchise i.e. Kolkata Knight Riders (KKR).

2. The complaint has been filed alleging the breach of Rule 38(1)(i), 38(1)(ii), 38(1)(v) and Rule 38(2) of the BCCI Rules and Regulations.
3. Notice was issued on the complaint to which the Respondent filed his reply, including supplementary counter affidavit and the complainant also filed his rejoinder to the said reply, which was followed by a fresh rejoinder due to the earlier one not being in the proper format.
4. I have heard Mr. Sanjeev Gupta, the complainant appearing in person, as well as Mr. Kingshuk Banerjee and Mr. Shayan Dasgupta, learned counsel appearing for the Respondent, at length.
5. The submission of the complainant Mr. Gupta is that the Respondent is occupying the post of Team Coach in



a Member Association of BCCI (MPCA) as well as an IPL franchise (KKR) at the same time. The Complainant submits that the BCCI Rule 38(1)(ii), in conjunction with its illustration '1' makes it clear that the Respondent cannot occupy the post of the Team Coach in MPCA and KKR simultaneously. Notably, heavy reliance has been placed by the complainant on the illustration 1 of BCCI Rule 38(1)(ii) which states that:

“Illustration 1: A is the Coach of a team. He is also Coach of an IPL franchise. A is hit by Conflict of Interest.”

6. On facts, the complainant has submitted that the respondent was occupying the post of MPCA Head Coach from April 1, 2022 and that he was also occupying the post of KKR Head Coach from August 17, 2022, which the complainant is stating on the strength of the MPCA website and social media posts of KKR respectively. He has further submitted that the Respondent took part in IPL Auction on December 23, 2022 and that he further attended the pre-season camp of KKR from March 19, 2023 onwards. Moreover, it is



the contention of the complainant that the payment schedule of the Respondent by MPCA started from April 1, 2022 and ended in March 31, 2023, in four equal installments.

7. With respect to the submission on Rule 38(1)(i), the complainant has submitted that the Respondent is also in breach of Rule 38(1)(i) since he himself has an interest in MPCA (i.e. a member association of BCCI) and interest in KKR also (i.e. an IPL franchise) owing to being the coach in both the teams and also since the definition of conflict of interest in Rule 1(A)(g) envisages benefits (monetary or otherwise), and in this case the respondent is getting monetary benefits out of his post as coach in both the teams, he should be held in breach of Rule 38(1)(i).

8. Further, in the context of breach of Rule 38(1)(v), it is submitted by the complainant that there is apprehension of bias in terms of Rule 1(A)(g) since the Respondent would, as the coach of KKR, have power to



take decision for selection and could influence the selection in favour of players from Madhya Pradesh since he would have the powers to influence decision of KKR.

9. Further, the complainant has submitted that the ratio laid down in the Rahul Dravid Case [*Order dated 14.11.2019 in the matter of Sanjeev Gupta v. Rahul Dravid*] would not be applicable in the present case since the order in the Rahul Dravid case (*supra*) was passed in a matter wherein the complaint was filed under Rule 38(4) of the BCCI Rules and not under Rule 38(1)(i), 38(1)(ii), 38(1)(v) and Rule 38(2).
10. Further, it is submitted by the complainant that since the Respondent has mentioned in its counter affidavit that if there was any conflict of interest it has already been resolved owing to him no longer being the MPCA Head Coach, this would amount to an admission of the fact that there existed a conflict in the first place. The complainant has further stated that since the



Respondent has argued that even if there existed any conflict, the same was tractable in nature and stood resolved by the disclosure to the Apex Council, this would also amount to the Respondent admitting the existence of conflict of interest. Moreover, with respect to the disclosure of the Respondent made to the Apex Council on August 7, 2023, the complainant has stated that the said disclosure under Rule 38(2) is granted by the person only when he/she is convinced that there is a conflict of interest. Thus, the fact that the Respondent furnished a disclosure is a testament to the fact that the respondent has admitted his instance of conflict of interest.

11. Per contra, Mr. Banerjee, learned counsel for the Respondent has submitted that there existed no overlap between the two contracts of the Respondent since while the Respondent's contract with KKR is dated 3 September 2022 and signed by the Respondent on 10 September 2022, the term of the contract is from 15 March 2023 to 15 June 2023. The Respondent's



contract with the MPCA, on the other hand, came to an end on 5 March 2023, and thereafter was renewed only on 16 June 2023, i.e. post the completion of the term of the KKR contract.

12. Further, the learned counsel for the Respondent has submitted that reliance placed by the Complainant on Rule 38(1)(ii) and Rule 38(4) of the BCCI Rules and Regulations is misplaced since the said provisions cannot be read in isolation and must necessarily be read along with the definition of “conflict of interest” provided under Rule 1(A)(g). It has been further stated that it is a settled position that it is not enough for a person to hold two positions to constitute an instance of conflict of interest (*Reliance is placed on the order dated 14.11.2019 in the matter of Sanjeev Gupta v. Rahul Dravid passed by the then Learned BCCI Ethics Officer*) and that the act of holding two positions should give rise to conflict of interest as defined under Rule 1(A)(g), which criteria in the present case is not fulfilled.



13. It has been further urged by the learned counsel for the respondent that even otherwise, the requirements of Rule 38(1)(ii) have also not been fulfilled since there is no averment made in the Complaint to show how the Respondent's position as the Head Coach of the MPCA could be said to be either "beholden to" or "in opposition of" his position as the Head Coach of KKR. In this context, it has been submitted that the Complainant's reliance on the first illustration under Rule 38(1)(ii) is also misplaced as an illustration cannot be read in isolation, nor can it expand or curtail the scope and ambit of the main provision and it must be read harmoniously with the main provision. It is submitted that in this case, the illustration ought to be read with the definition of conflict of interest appearing in Rule 1(A)(g) and the provisions Rule 38(1)(ii), and since the requirements of neither Rule 1(A)(g) nor Rule 38(1)(ii) are met in the instant case, reliance on just the illustration, de-hors the substantive provision itself, cannot be entertained. This is without prejudice to the fact that the illustration, too, envisages a situation where an

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individual holds two positions at the same time. It was submitted that as already stated before, the Respondent has never held nor presently holds two coaching positions at the same time.

14. Moreover, it has been emphatically submitted that if the Complainant's arguments as to the applicability of the provisions of Rule 38(1)(ii) and 38(4) are to be accepted, it would lead to undesirable consequences. It would effectively mean that a person who is a coach of a State team would never be allowed to take up a coaching assignment for an IPL franchisee. The direct consequence of the same would be that IPL Franchisees would be required to hire foreign coaches. Resultantly, this would lead to discrimination – as deserving and accomplished Indian coaches would be deprived of coaching opportunities, and their place would be taken by foreign coaches. It has also been submitted that the direct consequence of imposing the restrictions sought by the Complainant would be a violation of the Respondent's fundamental rights guaranteed under



Article 19(1)(g) and Article 21 of the Constitution of India.

15. It has been further submitted, without prejudice, that even if the Ethics Officer were to conclude that there exists an element of conflict of interest, the same is tractable in nature and, thus, resolvable by disclosure to the Apex Council, BCCI. It is submitted that vide a letter dated 7 August 2023, the Respondent has disclosed to the Apex Council, BCCI of the existence of its contract with MPCA and the likely renewal of its contract with KKR. Even prior to such formal disclosure, the fact that the Respondent was acting as coach of KKR during IPL 2023 and was, prior to that, coach of MPCA was well known to the public, on the Complainant's own showing.

16. Lastly, the learned counsel for the Respondent has submitted that the complainant has filed this complaint to harass and embarrass the Respondent. Further, it has been submitted that the Respondent understands

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that the complainant has made similar complaints against other members of the Indian cricket fraternity, which have either been withdrawn or dismissed by the Ethics Officer and that the complainant is in the habit of making such complaints and sending it to the various news agencies for which the complaint has been, on multiple occasions, given formal warning by the Ethics Officer. It has further been submitted that the complaint has recently withdrawn a sum total of 21 complaints *en masse* (presumably because the same had no merit) and that the complainant has filed the said complaint with a view to cause disruption and sensation in the cricketing fraternity and that he does not have the best interest of cricket in mind.

17. Before adjudication of the matter on merits, it is apposite to highlight that the complainant had filed a complaint against the Respondent on 22.11.2022, which was withdrawn by the complainant vide email dated 06.01.2023. Notably, the said withdrawal was not accompanied by an application seeking liberty to file the complaint again. Notwithstanding the same, the



complainant again filed a completely identical complaint (compared to the one withdrawn earlier) and pressed the same without even having mentioned in the complaint that an identical complaint had been filed and withdrawn earlier by the complainant. Further, no formal liberty was sought to file the complaint again post its withdrawal. On this technical ground itself, the present complaint is liable to be dismissed *in limine*. However, since the matter has been argued on merits, I am proceeding to decide the same.

18. Heard the parties and have perused the record.
19. The relevant Rule 1(A)(g), Rule 38(1)(i), 38(1)(ii), 38(1)(v) and Rule 38(2) of the BCCI Rules and Regulations are extracted hereunder for ready reference:

Rule 1(A)(g)

1(A)(g) – “*CONFLICT OF INTEREST*” refers to situations where an individual associated with the BCCI in any capacity acts or omits to act in a manner that brings, or is



perceived to bring the interest of the individual in conflict with the interest of the game of cricket and that may give rise to apprehensions of, or actual favouritism, lack of objectivity, bias, benefits (monetary or otherwise) or linkages, as set out in Rule 38.

Rule 38(1)(i), 38(1)(ii) and 38(1)(v)

38(1)- *A Conflict of Interest may take any of the following forms as far as any individual associated with the BCCI is concerned:*

- i.** *Direct or Indirect Interest:* *When the BCCI, a Member, the IPL or a Franchisee enter into contractual arrangements with entities in which the individual concerned or his/her relative, partner or close associate has an interest. This is to include cases where family members, partners or close associates are in positions that may, or may be seen to compromise an individual's participation, performance and discharge of roles.*

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- ii.** Roles Compromised: When the individual holds two separate or distinct posts or positions under the BCCI, a Member, the IPL or the Franchise, the functions of which would require the one to be beholden to the other, or in opposition thereof
- iii.** ...
- iv.** ...
- v.** Position of Influence: When the individual occupies a post that calls for 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 franchise/club/team that participates in the commercial leagues(s) under BCCI;

Rule 38(2)

38(2)- Within a period of 15 days of taking any office under the BCCI, every individual shall



disclose in writing to the Apex Council any existing or potential event that may be deemed to cause a Conflict of Interest, and the same shall be uploaded on the website of the BCCI. The failure to issue a complete disclosure, or any partial or total suppression thereof would render the individual open to disciplinary action which may include termination and removal without benefits. It is clarified that a declaration does not lead to a presumption that in fact a questionable situation exists, but is merely for information and transparency.

20. On facts, it is undisputed that the Respondent entered into a contract with MPCA on 28.06.2020 for taking up the post of “Head Coach” of the MPCA. The original term of the MPCA Agreement was for two cricket “Seasons” i.e., 2020-21 and 2021-22. However, it was agreed that the renewal of the same at the end of the 2020-21 season would be subject to the Respondent’s performance and annual review. Accordingly, in light of the “very satisfactory” performance of the Respondent, the contract with MPCA was extended in March 2021 for

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the 2021-2022 Season. Further, on 09.07.2022, the MPCA decided to extend the term of the MPCA Agreement for a further “Season”, up to the date of the last cricket match of the BCCI conducted tournament in 2022-23, which the Respondent accepted. Notably, even the Complainant in his Rejoinder has accepted the fact that the last match for the 2022-2023 season was played on 05.03.2023 and that the season stretched till March because BCCI decided to conduct two Irani Cup matches, in the absence of which, the season would have ended on 22.02.2023 itself. Therefore, there appears to be no dispute with respect to the fact that the extent of “season” as far as the MPCA contract is considered, ended on 05.03.2023.

21. Now, with respect to the contract of the Respondent with KKR, the primary bone of contention remains that the complainant has submitted that the said contract was signed in August 2022, while the Respondent has urged that the same is inaccurate as the duration of the said Contract was from 15 March to 15 June 2023 and thus



there was no overlap between the two contracts. Notably, the complainant has relied upon the social media posts of KKR team to submit that the contract between the Respondent and KKR was signed in August 2022. However, a bare perusal of the said contract makes it evident that the assertion of the complainant lacks factual force as the contract bears the stamp paper dated 03.09.2022 and the date of signing of the said contract is 10.09.2022. Moreover, Clause 2.1 of the said contract clearly defines the duration of the said contract from 15 March to 15 June 2023. In this context, the Respondent has submitted that the videos relied upon by the complainant were circulated by the Public Relations team of KKR and that the document in the video was not the actual contract which the Respondent signed. Thus, since the stamp paper itself is dated 03.09.2022, it would be impossible for the Respondent to have signed the same in August 2022. Nonetheless, it is evidently clear that the duration of the said KKR contract has been explicitly mentioned in the document itself i.e. 15 March to 15 June 2023.



22. Therefore, it transpires that the contract of the Respondent with MPCA expired on 05.03.2023 and that his contract with KKR commenced from 15.03.2023 and lasted till 15.06.2023. Further, it is brought on record by means of a supplementary affidavit by the Respondent that MPCA has renewed its contract with the respondent from 16th June 2023 till the last BCCI match of the Season or 14th March, whichever is earlier.

23. Thus, in light of the above factual matrix of non-overlapping of the two contracts, what remains to be answered is whether, as per the assertion of the complainant, the Respondent acted as the KKR Coach by attending the mini auction of IPL in December 2022 and by attending the pre-season camp of KKR from 19th March 2023?

24. Notably, with respect to the pre-season camp of KKR, it is clear that the Respondent was well within his rights to do so as his MPCA Agreement had expired on

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05.03.2023 and his KKR Agreement had commenced on 15 March 2023. Therefore, there appears to be no issue with the Respondent attending the pre-season camp of KKR from 19th March 2023 as he was officially acting as the KKR Coach. The submission of the complainant that since the payment cycle of MPCA was for approximately 12 months and thus would extend till 31 March 2023 cannot be accepted because, *first*, since the end date of the MPCA contract was volatile, the payment mechanism has to be on an approximate basis and cannot be laid down in ink and *second*, it is trite law that the payment structure cannot override the express terms of the existence and duration of the contract. Thus, the act of the Respondent in attending the pre-season camp of KKR cannot be faulted with.

25. Now, as far as attending the mini auction of IPL is concerned, the Respondent has submitted that the respondent could not have originally attended the said auction as there was an MPCA match scheduled on those dates. However, since the said match got over in



two days, the Respondent could attend the same. However, two further submissions in this regard merit attention. *First*, that while the Respondent expressed his views and provided inputs to the KKR management, he was not involved in any decision making – either with respect to player selection or allocation of player salary purse. Such decisions (like every other franchisee participating in the IPL) were taken exclusively by the management of KKR. The Respondent’s participation, therefore, in the auction process was, at best, informal and advisory. *Second*, the Respondent attended the preparation camp of the next MPCA match that were scheduled on 25th and 26th December 2022 and did not skip the same owing to attending the mini auction.

26. Thus, it is clear that the Respondent did not act in a manner that was prejudicial to the interest of the MPCA team as he neither left the team to attend the auction, nor delayed himself in attending the next practice session scheduled after a day of the action. Further, the submission of the Respondent that the complainant has



failed to point out in his complaint how the attending of the auction was in conflict with the role of the Respondent as MPCA Coach has merit. The complainant has, prima facie, made blanket assertions without expounding, with facts, as to how the said two roles were in opposition of each other or leading to a conflict, of any nature. In this context, the selection of no player in the KKR team has been questioned by the complainant, vis-a-vis which the Respondent has submitted that no player from MPCA plays in the KKR team, except Mr. Venkatesh Iyer, who as a matter of admitted fact, was a retained player and was not part of the alleged auction which the Respondent attended.

27. In this context, it is also appropriate to refer to the submission of the complainant that since the present case is not under Rule 38(4), the ratio of the Rahul Dravid judgment (*supra*) does not apply. This submission of the Complainant is patently superfluous and does not have merit. The judgment in the Rahul Dravid judgment (*supra*) was made in the context of



interlink between the mere allegation of conflict of interest and actual favoritism, lack of objectivity, bias and benefits. Thus, the judgment in the case of Rahul Dravid (*supra*) cannot be restricted to cases only under Rule 38(4) but would be harmoniously extended to all cases where conflict of interest [as envisaged under Rule 1(A)(g)] is the subject matter of dispute. Notably, in the present case, the complainant has failed to show how the position of the Respondent as MPCA coach was “beholden to” or “in opposition of” the position as KKR Coach. The complainant has mainly relied upon the illustration appended to Rule 38(1)(ii). However, the said provision has to be read in context of the definition of conflict of interest and the overarching theme of Rule 38 itself, thereby making it evident that the illustration presupposes that the holding of both the posts simultaneously, at the same time. This, as it has been shown on facts, is not the case in the present factual matrix as the two contracts of the Respondent were not overlapping. Thus, reliance on Rule 38(1)(ii) and the accompanying illustration does not establish the



existence of conflict of interest on the part of the Respondent.

28. Further, in the context of alleged breach of Rule 38(1)(i) and Rule 38(1)(v), the same have also not been established by the complainant on the facts of the case. Moreover, with respect to the allegations of compromising roles and exercising position of influence, it has been rightly submitted on facts by the Respondent that no player who plays for MPCA has been included in the KKR team, except Mr. Venkatesh Iyer, who is an India capped player and was retained by KKR in the mega auction on 24.11.2021 i.e., at a time when the Respondent was not, in any role whatsoever, involved with the KKR franchise. Thus, I find merit in the submission of the Respondent that even if there was any remote apprehension of bias on the Respondent's part vis-à-vis the selection and auction process, the fact that no player or affiliate of MPCA has been inducted into the current KKR team, is testament to the fact that there has been no actual favoritism or bias on the part of the



Respondent. The complainant has failed to lead evidence to counter this submission of the Respondent.

29. In this respect, a pointed reference must also be made to the definition of conflict of interest incorporated in Rule 1(A)(g) of the BCCI Rules and Regulations wherein conflict of interest has been defined as *“situations where an individual associated with the BCCI in any capacity acts or omits to act in a manner that brings, or is perceived to bring the interest of the individual in conflict with the interest of the game of cricket **and** that may give rise to apprehensions of, or actual favoritism, lack of objectivity, bias, benefits (monetary or otherwise) or linkages, as set out in Rule 38.”* Notably, the operating conjunction in the definition is “and”. Thus, it would not be enough to simply fall into any of the categories envisaged in Rule 38 but the complainant must also demonstrate from the facts of the case, how a situation is made out creating apprehension of, or actual favoritism, lack of objectivity, bias, benefits (monetary

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or otherwise) or linkages, as set out in Rule 38, which the complainant, in the present case, has failed to make out.

30. Moreover, the submission of the complainant that making a disclosure to the Apex Council by the Respondent regarding his role at MPCA and KKR amounts to admission of conflict of interest is not sustainable on law as Rule 38(4) itself makes it evidently clear that declaration does not lead to a presumption that in fact a questionable situation exists, but is merely for information and transparency. Thus, the said submission of the complainant lacks any force and must not be understood to lay the correct position of law for any future declaration by any BCCI official.

31. Therefore, a lucid understanding of the facts and law in the present matter makes it clear that there exists no overlapping contract, and that no instance of conflict of interest is made out.



32. Before parting with the matter, I may clarify that the BCCI Rules and Regulations are made for better regulation of the game and for furthering the interest of the game and promoting it. Thus, any reading of the said Rules and Regulations that is restrictive, myopic and injurious to the interest of the game should be discouraged. In this context, I find merit in the submission of the Respondent that that an excessively strict and literal interpretation and application of Rule 38 would result in unfairness to the Indian Cricketing Fraternity as it would be heavily discriminatory towards Indian Coaches, who would be denied opportunity in the IPL, solely on the ground of being a coach in a member State association. This, regrettably, would invariably work in favour of foreign nationality coaches and would be discriminatory towards the Indian Coaches. This, in turn, could also have the potential to adversely impact the State Cricket Association teams, as skilled and talented coaches may refrain from taking assignments with the State Boards if it costs them any and all opportunity during the off-season period of the game.

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33. The above outcome cannot be the intention of the BCCI Rules and Regulations. Further, such strict and literal approach would also encourage the IPL franchises to appoint foreign coaches as they would not be covered by the said Rules and thus an Indian Cricketers, while applying to such post of Coach would find themselves to be in a disadvantageous position, compared to coaches of other nationalities. At the cost of repetition, it is clarified that this cannot be the true intention of the BCCI Rules and Regulations and thus the said Rules must be interpreted in a harmonious and congruous manner rather than a positivist, narrow and stringent manner.

34. In view of the above stated facts and law, it transpires that the complainant has failed to make out a case for conflict of interest vis-à-vis the Respondent.

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35. Accordingly, the complaint is dismissed on merits, as well as for refileing a withdrawn complaint without seeking liberty for the same, for which procedural impropriety, a token cost of Rs. 1000/- is being imposed on the complainant to be deposited within 30 days from today, with the Prime Minister's National Relief Fund.



**[JUSTICE VINEET SARAN]
ETHICS OFFICER, BCCI**

Date: 21.02.2024