

Dear Sirs,

This has reference to the amended constitution of the Maharashtra Cricket Association (“MCA”) which has been sent by the Secretary of the MCA vide his email dated 24th April 2018.

1. The Committee of Administrators has, with the assistance of the BCCI legal team, scrutinized the said amended constitution of the MCA sent by its Secretary (“**Amended Constitution**”) on the basis of the checklist circulated to all State Associations on 13th June 2017 and again on 19th March 2018. It has been observed that page 6 of the Amended Constitution is missing. Further, the Committee of Administrators has received an email dated 26th April 2018 from the former President of the MCA *inter alia* stating that there are certain differences between the Amended Constitution (as sent by the Secretary of the MCA) and the one that was finally discussed and approved at the Special General Meeting of the MCA held on 7th April 2018 which he presided over. This fact alone casts serious doubts as to the sanctity of the Amended Constitution.

2. Nevertheless, after scrutiny, the Committee of Administrators is of the view that the Amended Constitution substantially deviates from the recommendations of the Hon’ble Justice Lodha Committee as accepted by the Hon’ble Supreme Court vide its judgment dated 18th July 2016 (“**Judgment**”) and is not compliant with the same. Particulars of the major deviations that have been observed are provided below:

(a) Although Clause 50C of the Amended Constitution at page 30 provides for appointment of an Electoral Officer, the powers of the Electoral Officer are confined to elections to the Managing Committee only. Clause 25 of the Amended Constitution at page 14 provides that the office bearers shall be elected only by the Managing Committee and not by the General Body. This is a fundamental deviation from the recommendations of the Hon’ble Justice Lodha Committee because the office bearers need to be elected by the General Body and not by the Managing Committee from amongst themselves.

(b) To further compound the aforesaid fundamental deviation, various powers in relation to election of office bearers which ought to have been conferred on the Electoral Officer have been kept with the Managing Committee itself. These include the power to decide all questions of eligibility of persons nominated or elected as members of the Managing Committee (See Clause 34(m) of the Amended Constitution at page 20), the power to prepare list of voters eligible to vote and to receive and decide complaints in respect thereof (See Clause 34(o) of the Amended Constitution at page 20) and the power to appoint scrutineers to scrutinize nomination papers (See Clause 34(r) of the Amended Constitution at page 21) to name a few.

(c) In addition to the above, the composition of the Managing Committee as provided in Rule 21 of the Amended Constitution at pages 10-11 appears to have been formulated with a view to perpetuating vested interests that have been entrenched in the MCA and sidelining former international players hailing from the State. For instance, although Clause 22(2) of the Amended Constitution at page 11 says that all office bearers including President shall be members from one of the categories of members (including “International Cricketer member”), Clause 21 of the Amended

Constitution at pages 10-11 does not provide for any member of the Managing Committee to be elected from amongst the “International Cricketer members” (referred to in Clause 13 of the Amended Constitution at page 7). This, read with the qualifications stipulated in Clauses 22(4) and 22(5) of the Amended Constitution at pages 13 effectively ensures that no “International Cricketer member” can ever become an office bearer, thereby rendering their membership nominal.

(d) In fact, the status of the “International Cricketer members” is itself unclear given that:

(1) “International Cricketer members” do not find mention in Clause 11 of the Amended Constitution at page 7.

(2) Under Clause 15 of the Amended Constitution at page 8, any application for membership may be rejected without assigning any reasons.

(e) Clause 22(3)(f) of the Amended Constitution at page 12 only deals with office bearers although various other posts (including members of Managing Committee) are provided for under the Amended Constitution. Accordingly, Point No. 1 of the checklist, which requires that no post in the Association should be held for more than 9 years, has not been complied with because Clause 31 of the Amended Constitution at page 18 does not incorporate it.

(f) Clause 50C(b)(1) of the Amended Constitution at page 30 provides that the Electoral Officer shall be a former member of the Election Commission of Maharashtra or a retired High Court judge. However, as per the report of the Hon’ble Justice Lodha Committee, the electoral officer of a State Association has to be a retired Central or respective State Election Commissioner and, in the event no such person is available, any other former State Election Commissioner (preferably from a neighbouring State) may be appointed. The appointment of a retired High Court judge as electoral officer is not contemplated.

(g) Clause 34(g) of the Amended Constitution at pages 19-20 empowers the Managing Committee to elect selection committees. Although the said clause states that the selection committee should be an independent body free from Governing body members, this does not meet the requirement of the selection committee being independent/ free from the Governing Body/ Managing Committee. Selection committee should be appointed by the General Body and not the Managing Committee.

(h) There is no provision which disallows proxy voting.

(i) Although Clause 23 of the Amended Constitution at page 13 states that all office bearers and members of the Managing Committee shall hold office for 3 years, Clause 22(6)(ii) of the Amended Constitution at page 13 indicates that a “full term” under the Amended Constitution is 5 years.

3. Your attention is drawn to the fact that vide resolution passed by the Special General Body meeting of the MCA held on 29th December 2017, the MCA undertook to implement and support the reforms as accepted by the Judgment in letter and spirit.

The said resolution was sent to the Committee of Administrators under affidavit dated 29th December 2017 affirmed by the then President of the MCA. It is learnt that the said affidavit has also been filed in the Hon'ble Supreme Court. On this basis, substantial amounts running into crores of rupees have been sought by the MCA and disbursed by BCCI. The Committee of Administrators understands that fixed deposits amounting to around Rs. 15 crores which had been frozen vide orders dated 7th October 2016 and 21st October 2016 were also released on the basis of the aforementioned affidavit.

4. From the major deviations set out above, it appears that the MCA and its officials have falsely claimed compliance with the Judgment, violated the undertaking contained in the affidavit filed before the Hon'ble Supreme Court and left no stone unturned to subvert and nullify the letter and spirit of the recommendations of the Hon'ble Justice Lodha Committee.

5. In light of the aforesaid, all concerned are put on notice that:

(a) The elections proposed to be held on 2nd May 2018 are contrary to the directives issued by the Hon'ble Justice Lodha Committee in exercise of the powers conferred on it vide the Judgment since the Amended Constitution is not compliant with the Judgment;

(b) The Committee of Administrators and the BCCI will treat the MCA as a defaulting State Association and shall not recognize the results of such elections and treat the same as null and void;

(c) Any person(s) involved in the conduct of or participating in the elections shall be held responsible for having wilfully acted in violation of the Judgment and consequent directions issued by the Hon'ble Justice Lodha Committee and the Committee of Administrators shall take such steps/ action as it considers appropriate in this regard including by bringing the same to the attention of the Hon'ble Supreme Court; and

(d) For the purpose of ensuring compliance by all concerned, the Committee of Administrators is directing the CEO of BCCI and the Secretary of the MCA to put up a copy of this communication on the websites of BCCI and MCA respectively.

Thanking you.

Yours faithfully,
The Supreme Court Appointed Committee of Administrators