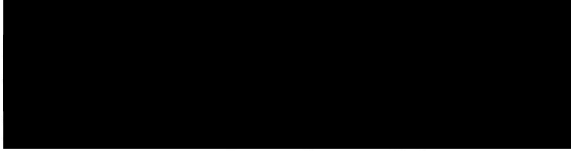


**BEFORE JUSTICE D. K. JAIN, FORMER JUDGE, SUPREME COURT OF INDIA  
OMBUDSMAN, THE BOARD OF CONTROL FOR CRICKET IN INDIA**

**REFERENCE 1/2019**

**IN RE:**

**Mr. Hardik Pandya**



**ORDER  
19.04.2019**

1. The Supreme Court appointed Committee of Administrators (for short “the COA”) of the Board of Control for Cricket in India (for short “the BCCI”) has made the present Reference to the Ombudsman under Rule 41 (c) of the Rules and Regulations of the BCCI (hereinafter referred to as “the Rules”), alleging certain acts of misconduct on the part of Mr. Hardik Pandya (hereinafter referred to as “the Player”).

2. Succinctly put, the facts leading to the present Reference, as can be gathered from the documents sent along with the Reference, are as follows:

On 06.01.2019, the Player, along with Mr. K.L. Rahul, one of his teammates, appeared on a Television show titled as “Koffee with Karan”. It is alleged that in the interview with Mr. Karan Johar, the host of the show, they made certain remarks, which were sexist, disrespectful to women and racist. Taking cognizance of the same, on 09.01.2019, the BCCI addressed an e-mail to the Player asking him to explain his conduct and comments made on the said show. The Player responded to the said mail on the same day, tendering an apology for his comments and stating that the same were made in the flow of the show without realizing that these could be disrespectful in any manner and offend sensitivities of the viewers.

1

With his explanation, he also attached copies of public apologies issued by him on social media platform. On receipt of the said response, on 11.01.2019, the COA issued notice to the Player asking him to show cause within seven days as to why the BCCI should not proceed against him for misconduct and indiscipline under Rule 41 of the Rules. On the same day, viz. 11.01.2019, exercising the power conferred on it under Rule 41(6) of the Rules, the COA suspended the Player with immediate effect from participating in any manner whatsoever in any match or function or event or activity that is authorized, organized, sanctioned, recognized or supported in any way by the BCCI, the ICC or any State Association, until final adjudication of the matter.

Pursuant to the said order, the Player returned back home from the Indian Cricket Team's ongoing tour of Australia, where he was playing for the Country.

On 14.01.2019, the Player responded to the aforesaid show cause notice issued by the COA, apologising for his comments, which, according to him, may have been insensitive and offensive. He stated that the said event had made him realize that there was a need for him to improve both personally and professionally and also to conduct himself in a better way, considering that the cricketers serve as idols for the young. He undertook to take all necessary steps and cooperate with the COA to ensure that he sets a better example for himself and the Indian Cricket. He requested that the COA may take a considerate view in the matter and he be allowed to return to the Cricket pitch at the earliest.

On 15.01.2019, the Player was informed that the Chief Executive Officer (for short "the CEO"), BCCI, had been asked to conduct a preliminary inquiry under Rule 41(1)(c) of the Rules. In furtherance thereof, on 15.01.2019 itself, a video conference was held by the CEO with the Player when he was asked, if he had anything further to say in the matter. Again, the Player expressed



his deep regret for his statements on the said show and profusely apologized to the BCCI, his teammates and all the fans of the game of Cricket. He also stated that he knows that he had committed a mistake and was sincerely apologetic for the same and did not mean any disrespect to anyone. He further stated that he wanted to focus on his game and get back to playing cricket at the earliest; he wishes to improve his conduct and seek help to better himself as a person and public figure, as he represents the Country and the BCCI. He pleaded that since he had already been made to miss a part of the Australia tour, so, no further penalty be imposed on him.

Upon submission of the preliminary report by the CEO to the COA on 15.01.2019, on 24.01.2019, the COA lifted the suspension, imposed on the Player, vide its order dated 11.01.2019, pending appointment and adjudication on the aforestated allegations, by the BCCI's Ombudsman, whose appointment was awaiting directions of the Hon'ble Supreme Court of India.

As a result of his recall from the ongoing Australia tour, the Player missed out three One Day International (ODI) matches in Australia and two ODIs in New Zealand. It seems that on account of the said suspension, the total loss of earnings to the Player was to the tune of ₹30 lacs.

3. After the appointment of the undersigned as the Ombudsman of the BCCI, by the Hon'ble Supreme Court of India, vide its order dated 21.02.2019, the present Reference has been made.
4. Upon a perusal of the material, accompanying the Reference, vide order dated 27.03.2019, the undersigned was of the *prima facie* view that a case requiring examination of the alleged acts of misconduct on the part of the Player had been made out. Accordingly, a notice was issued to the Player to appear before the undersigned on 09.04.2019 and present his version on the entire episode, either



orally or in writing. A copy of the said notice was marked to the BCCI with a direction that it may also place its stand on the Reference before the undersigned.

5. In pursuance thereof, the Player appeared before the undersigned and stated that he did not propose to contest the present proceedings. He stated that in the episode in question viz. "Koffee with Karan" he was carried away and in the process he had hurt the sentiments of the viewers, including his fans and followers of the game of cricket. He further stated that the remarks, considered to be offensive, were made by him at the spur of the moment, without realizing that these could be disrespectful and may offend the sensitivities of the viewers. He reiterated that he had already made public statement apologizing for the said episode; he had highest regard for the BCCI and for the game of Cricket; will exercise complete discretion and prudence to ensure that such incidents are not repeated in future. He pleaded that since he had already undergone tremendous mental strain for the misdemeanour on his part and had also missed three ODIs in Australia and two ODIs in New Zealand, a sympathetic view may be taken in the matter.
6. In their written response to the notice dated 27.03.2019, the BCCI has stated that they will be guided by any decision, which may be taken and the directions issued by the undersigned in the matter. However, during the course of personal hearing on 09.04.2019, the CEO stated on behalf of the COA that the Committee feels that recall of the Player from the tours of Australia and New Zealand; the loss of match fee and sitting out for five games was sufficient penalty for the acts of misdemeanour, if any, of the Player.
7. Having bestowed my anxious consideration to the entire matter, in the light of the material placed before me and the aforementioned stand



of the Player, I am of the opinion that since the Player has not contested the action initiated against him by the BCCI under Rule 41 of the Rules, it is unnecessary to return a categorical finding as to whether the remarks made by the Player during the course of the aforesaid chat show did constitute as acts of indiscipline or misconduct or violation of any of Rules and Regulations by the Player, as contemplated under Rule 41(1)(c) of the Rules.

8. The game of Cricket enjoys huge popularity world over and is a passion in the Country. In fact, in our Country, the game of Cricket is often treated as religion, revered and the Cricketers are idolised. The Cricketers wield immense influence in the Society, especially the youth, who look upon them as role models. Therefore, a player of international standing needs to bear in mind that he is shouldering a responsibility towards the society all the time, be it on or off the field, of motivating and inspiring right conduct amongst those young minds who look upon such prodigies as role models. These impressionable young adults try to emulate not only their style of playing but also their conduct and demeanour and therefore, they cannot be unmindful of the impact of their casual and off the cuff remarks.
9. As for the present case, undoubtedly, the Player owes his fame and status to the game of Cricket, and therefore, he has a greater responsibility to ensure that his conduct is befitting the status, he has acquired and does not affect the reputation of the sport, he is associated with. I have no hesitation in observing that the remarks made by the Player, even by his own admissions, did offend sensitivities, which ought to have been avoided. Hence, he must make amends. Taking into consideration all these aspects, in particular the fact that the Player has tendered an apology for the incident without seeking to justify his action; has acknowledged his



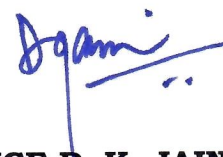
duty to the Society and expressed his willingness to hold himself to the higher standards expected of him and has missed out five ODIs, in the interest of justice and fair play, in order to purge his indiscretion, it would suffice, if the Player is directed to:

- (i) pay a sum of ₹1,00,000/- to each of the most deserving widows of ten Constables in para-military forces who have lost their lives while on duty, through the medium of "Bharat Ke Veer App"; and
- (ii) deposit a sum of ₹10,00,000/- in the fund created by the Cricket Association for the blind, for the promotion of the Game of Cricket for the blind.

The aforementioned amounts be paid/deposited within four weeks from the date of receipt of this order.

10. If the aforestated amounts are not paid/deposited by the Player within the time granted, the BCCI may deduct the said amounts from the match fees payable to the Player and make the requisite deposits, as directed above.

11. The Reference is answered accordingly.



**(JUSTICE D. K. JAIN)**  
**OMBUDSMAN, BCCI**

**19<sup>th</sup> April 2019**