

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

**COMPLAINT 6/2019**

**In re:**

**Complaint dated July 2, 2019 received from:**

**Mr. Sanjeev Gupta**

**In the matter of:**


**Mr. Rahul Dravid**

**ORDER  
14.11.2019**

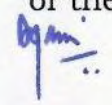
1. This order shall dispose of the Complaint received by the Ethics Officer of the Board of Control for Cricket in India (for short "the BCCI") from Mr. Sanjeev Gupta, (hereinafter referred to as "the Complainant"), under Rule 39 of the Rules and Regulations of the BCCI (for short "the Rules") against Mr. Rahul Dravid. In the Complaint it is alleged that Mr. Dravid is occupying more than one posts, as enumerated in Rule 38(4) of the Rules, at a single point of time, in blatant violation of the said Rule and as such, he must relinquish one of the posts. The two posts, which Mr. Dravid is stated to be occupying at the same time are stated to be:

- a. Head-Coach of BCCI Junior Team/Head Cricket Coach of the National Cricket Academy, (NCA), Bengaluru; and
- b. Vice President of the Company - India Cements Ltd., the owner of IPL Franchisee - Chennai Super Kings.

According to the Complainant, the said two posts are covered by clauses (j) and (c) of Sub-rule (4) of Rule 38 of the Rules, respectively, and as such, give rise to a "conflict of interest", as defined in Rule 1(A)(g) of the Rules.



2. Notices on the Complaint, were issued to Mr. Rahul Dravid and the BCCI, on July 27, 2019 calling upon them to file their responses, in writing, to the said Complaint, on or before, August 16, 2019, which was done.
3. In his reply, filed on Affidavit, on August 9, 2019, Mr. Dravid has refuted the allegation of any kind of "Conflict of interest", as alleged in the Complaint. He has submitted that he had taken over as the Head Cricket Coach of the National Cricket Academy (NCA), set up by the BCCI at Bengaluru on July 8, 2019, only after complying with all the formalities that were specified and required by the BCCI, including the provisions of Rule 38 (2) of the Rules. To avoid any kind of Conflict of interest, on the advice of the BCCI, he took 'leave of absence,' without pay, from his Employer i.e. India Cements Limited, for the entire term of his engagement with the BCCI, in the said capacity of Head Cricket Coach. He has stated that though he has been an employee of India Cements Limited for over two decades, he never had any connection, relationship or obligation towards Chennai Super Kings (CSK), a franchise of the Indian Premier League (IPL), which is now owned by Chennai Super Kings Cricket Ltd; a Company incorporated under the Companies Act, 2013, and at no point in time, either in the past or at present has he been in the "governance, management or employment" of the CSK franchisee, namely, Chennai Super Kings Cricket Ltd., as envisaged in Clause (g) of Sub-rule (4) of Rule 38 of the Rules. He has asserted that his employment with India Cements Limited, is not and cannot be construed as an employment with the CSK franchisee, regardless of any relationship between the two entities, viz India Cements Limited and Chennai Super Kings Cricket Ltd. He has further pleaded that at no point in time, has he been a "Team Official" of CSK.
4. In its reply, dated August 16, 2019, the BCCI has stated that whilst it is true that Mr. Dravid has been and continues to be a "Team Official", in terms of Clause (c) of Sub-rule (4) of Rule 38 of the Rules, but the stand of the Complainant that Mr. Dravid is an employee of a franchisee is not




correct. It is pointed out that India Cements Limited, the employer of Mr. Dravid is not the franchisee of the IPL. The Franchisee of CSK is Chennai Super Kings Cricket Ltd., a company registered under the Companies Act, 2013 and not India Cements Ltd., an independent corporate entity. It is stated that it was at the BCCI's request to Mr. Dravid that he had obtained 'leave of absence' from India Cements Limited for the entire duration of his contract with the BCCI as the Head Cricket Coach at National Cricket Academy, Bengaluru.

5. On receipt of the said replies, vide order dated August 17, 2019, communicated through email dated August 22, 2019, an opportunity was granted to the Complainant to respond to the replies received from Mr. Rahul Dravid and the BCCI, on or before, September 14, 2019. All the said three Parties were also directed to appear before the Ethics Officer on September 26, 2019 for a personal hearing.
6. Mr. Rahul Dravid along with his Counsel, Mr. Nandan Kamath, Advocate, Mr. Rahul Johri, CEO of the BCCI along with Mr. Indranil Deshmukh, Advocate and Mr. Biswa Patnaik, Sr. Legal Advisor of the BCCI and the Complainant, in person, appeared before the Ethics Officer on September 26, 2019. The Parties were heard at length.
7. In the course of hearing, the Complainant emphasized that Chennai Super Kings Cricket Ltd., is a wholly owned subsidiary of India Cements Limited and even some of the Directors of Chennai Super Kings Cricket Ltd. and India Cements Ltd. are common. Therefore, a mere change in the nomenclature of the two Companies will not alter the position that Mr. Dravid continues to be a "person who is in governance, management or employment of a franchisee", notwithstanding the fact that he is an employee of India Cements Limited and is on 'leave of absence', thus, falling within the ambit of Clause (g) of Sub-rule (4) and Rule 38 of the Rules. It was asserted that he occupies two posts, as contemplated in



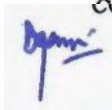
Clauses (c) and (g) of the said Rule 38(4) of the Rules, and therefore, a case of "Conflict of interest" is made out.

8. On conclusion of the oral submissions, Mr. Nandan Kamath, Ld. Counsel appearing for Mr. Dravid, prayed for and was permitted to file a written note of his submissions. The copies of the same were supplied to the Complainant and Ld. Counsel for the BCCI.
9. In the written note, Ld. Counsel appearing for Mr. Dravid, has reiterated that Chennai Super Kings Cricket Ltd., the IPL Franchisee, is an independent legal entity, with which, Mr. Dravid has no concern, and, therefore, he cannot be said to be a person "who is in governance, management or employment of a franchisee", attracting Rule 38(4)(j) of the Rules. It is urged that even a full time employment with a third party, which is not a franchisee, is not one of the items listed in Rule 38(4) of the Rules and hence the question whether or not 'leave of absence' is not an adequate remedy, as alleged by the Complainant, does not fall within the scheme of Rule 38 of the Rules and, hence should not be entertained in these proceedings.
10. It may be recorded that while preparing the present order, since the Ethics Officer was of the view that his earlier decisions in the cases of Mr. Sourav Ganguly and Mr. V.V.S. Laxman required reconsideration on the limited aspect of literal interpretation of Sub-rule (4) of Rule 38 of the Rules and the interplay of the said Rule with Rule 1(A)(g) of the Rules and Sub-rule (1) of Rule 38 of the Rules, a notice of further hearing to the Parties on this aspect was given on 30<sup>th</sup> October 2019, fixing the hearing for 12<sup>th</sup> November 2019. The Parties concerned i.e. the Complainant, Mr. Nandan Kamath, Ld. Counsel for Mr. Dravid and Mr. Abhinav Mukerji, Ld. Counsel the BCCI were heard on this aspect on 12<sup>th</sup> November 2019 and the matter was reserved for orders.



11. Since all the Parties are *ad-idem* that Mr. Dravid is a "Team Official" within the meaning of Clause (c) of Sub-rule (4) of Rule 38 of the Rules, the question, which arises for consideration is whether in the facts at hand, a case of "Conflict of interest", as contemplated under Rule 38 of the Rules is made out against Mr. Rahul Dravid or not?
12. The concept of "conflict of interest", is not necessarily a question about something one does or intends to do but a question of what one can possibly or potentially do. However, in so far as the Rules of BCCI are concerned, the said principle has been codified in Rule 1(A)(g) read with Rule 38 of the Rules. Rule 1(A)(g) of the Rules refers to the 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 of the Rules. Hence, the question of "conflict of interest" has to be considered on the touchstone of the definition, which clearly brings within its ambit all situations, which have even the potential or perception of giving rise to apprehension of any kind of favouritism, lack of objectivity, bias, benefits (monetary or otherwise) or linkages by or to a person associated with the BCCI, in any capacity.
13. The issue of inter-play between Rule 1(A)(g) of the Rules, defining "conflict of interest", Sub-rule (1) of Rule 38 of the Rules enumerating various forms, which may constitute "conflict of interest" and Sub-rule (4) of Rule 38 of the Rules and the object of the Rules, has been considered by the Ethics Officer in the case of Mr. Sourav Ganguly, wherein it was observed as follows:

"A conjoint reading of the provisions of the Constitution as also the Rules of the BCCI leads to an irresistible conclusion that one of the basic ideas behind the



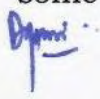
introduction of the Rules, especially the definition “conflict of interest” in Rule 1(A)(g) and the provisions of Rule 38 of the Rules was to implement the principle of ‘one man one post’, in the larger interest of the game of Cricket. Evidently, it is aimed at avoiding concentration of power in a few hands and also for ensuring larger participation of the persons having vast knowledge and experience in the game of Cricket. Looked at from that angle, it has to be held that the use of the word “may” in Rule 38 (4) of the Rules does not mean that the provisions contained therein are merely directory. It is no longer *res integra* that mere use of the words such as “may” or “shall” would not necessarily make a provision mandatory or directory. On the contrary, whether a provision is mandatory or directory, depends upon the intent of Legislature and not upon the language for which, the intent is clothed. Thus, the issue is to be examined keeping in focus the context, subject matter and object of the statutory provisions in question. The Court may find out what would be the consequence, which would flow from construing it in one way or the other and as to whether the Statue provides for a contingency of the non-compliance is visited by small penalty or serious consequence would flow there from and as to whether a particular interpretation would defeat or frustrate the legislation and if the provision is mandatory, the act done in breach thereof will be invalid.”

14. It was thus held that the provisions contained in Sub-rule (4) of Rule 38 of the Rules could not be held as merely directory. Accordingly, it was opined that Sub-rule (4) of Rule 38 of the Rules is a stand-alone Rule and not dependent on the applicability of various forms of “conflict of interest” some of which are illustrated in the said Sub-rule. Nevertheless, while noting that Mr. Ganguly was, in fact, holding three posts, viz (i) member of Cricket Advisory Committee; (ii) Advisor to an IPL franchisee; and (iii) An office bearer of one of the members of the BCCI, no specific finding on the question of actual or potential consequences of his holding the stated multi-posts was



given but his role in each of the three posts was indeed examined. Therefore, adopting a literal interpretation of Sub-rule (4) of Rule 38 of the Rules, the Ethics Officer had expressed the view that if an individual occupies more than one post, as enumerated in Clauses (a) to (p) of Sub-rule (4) of Rule 38 of the Rules and nothing further is required to be considered. The ratio of the said decision was subsequently also applied in the case of Mr. V.V.S. Laxman.

15. Incidentally, the stand of the BCCI in the cases of both Mr. Sourav Ganguly and Mr. V.V.S. Laxman was that both Mr. Ganguly and Mr. Laxman were holding more than one post, which were covered under Sub-rule (4) of Rule 38 of the Rules and hence instance of "conflict of interest" had, in fact arisen. However, BCCI had also taken a stand in both the cases that the "conflict of interest" in those cases was a tractable "conflict of interest", which could be resolved by directing the individuals concerned to declare the "conflict of interest" in a fair and transparent manner and by adhering to directions, which may be issued by the Ethics Officer on the lines, indicated in the reply.
16. However, while applying the afore-stated opinion, on the facts of the present case, and also the subsequent cases which have come up after deciding Mr. Ganguly and Mr. Laxman's cases, I am impelled to have a fresh look on the opinion already expressed in the said cases. I feel that the afore-stated literal interpretation of Sub-rule (4) of Rule 38 of the Rules has resulted in a situation where the other provisions contained in the Rules, in particular, Rule 1(A)(g) of the Rules- defining "conflict of interest" and Sub-rule (1) of the Rule 38 of the Rules- elucidating by way of illustrations, at least, five circumstances, which may take the form of a "conflict of interest", are rendered otiose.
17. It is trite law that where literal meaning of the words used in statutory provisions leads to making a part of the same provision or some of the provisions in the same statute meaningless and



ineffective, it is legitimate and even necessary to adopt the Rule of liberal construction so as to give meaning to all parts of the provisions and to make the whole of the statute effective and operative.

18. Looked at from that angle, I am of the view that while giving a literal interpretation in the earlier decision of Mr. Ganguly to Sub-rule (4) of Rule 38 of the Rules, Sub-rule(1) of Rule 38 of the Rules altogether stood divorced from the said Rule and in the process, Sub-rule (4) got treated as a stand-alone provision. Resultantly, the effect and significance of the definition of "conflict of interest" in Rule1(A)(g) of the Rules, which is and ought to be treated as relevant for Rule 38 of the Rules, to define the said expression, is altogether lost. In my considered opinion, in order to avoid any of the provisions in the Rules being rendered meaningless or ineffective, the earlier opinion expressed by me in the afore-noted cases, calls for a reconsideration to that limited extent. I am conscious of the fact that the view taken earlier should not be revisited easily unless the circumstances so demand. As noted above, while taking the afore-noted view earlier, all other provisions in the Rules are rendered redundant, which fact, completely justifies reconsideration of the earlier opinion, on that aspect.

19. Having reconsidered the matter in the light of the afore-stated provisions, while maintaining that on a literal interpretation, it may not be possible to hold that Sub-rule (4) of Rule 38 of the Rules, is merely directory. Nevertheless, on a harmonious and meaningful construction of all the provisions in the BCCI Rules, I am of the opinion that the said Sub-rule (4) cannot be divorced from sub-Rule (1) of Rule 38 of the Rules. Hence, while examining the question whether or not there is a "conflict of interest" in the case of a particular individual, the actual or potential consequences of the instances illustrated in extenso in Sub-rule (1) of the Rule 38 of the Rules or other possibilities of potential/actual conflicts similar to

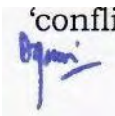




those given in Sub-rule (1) of the Rule 38 of the Rules, have to be kept in view. To put it differently, for examining an instance of “conflict of interest”, mere holding of post/s by an individual associated with the BCCI, as identified in Sub-rule (4) of Rule 38 of the Rules, may not *per-se* be sufficient for arriving at the conclusion of existence of “conflict of interest”. But whether holding of such post(s) gives rise to “conflict of interest” or not must also be tested on the anvil of reasonable apprehensions of, or actual favoritism, lack of objectivity, bias, benefits, etc., as contemplated in the definition of “conflict of interest” in Rule 1(A)(g) of the Rules.

20. Reverting to the facts at hand, even assuming that the Complainant is right in saying that despite having taken ‘leave of absence’, as advised by the BCCI, Mr. Rahul Dravid continues to be a person “who is in governance, management or employment of a franchisee”, as contemplated in Clause(j) of Sub-rule (4) of Rule 38 of the Rules, in my view, in order to make out a case of “conflict of interest”, it is to be seen whether by virtue of his position as an employee of India Cements Limited, as alleged, Mr. Dravid’s posts would give rise to an apprehension of, lack of objectivity or bias while discharging his functions assigned to him by the BCCI as a “Team Official”, being the Head Cricket Coach of NCA or vice-versa. At least, I am unable to fathom any such circumstance (none has even been pointed out by the Complainant), which would come in the way of Mr. Rahul Dravid in fairly discharging his duties as a “Team Official”, without being influenced or influencing, in any manner, as a person who is in governance, management or employment of a franchisee or vice versa.

21. Bearing in mind the afore-stated principles, in my view, the over emphasized issue of effect of ‘leave of absence’, without pay, obtained and granted to Mr. Rahul Dravid by his Employer, namely, India Cements Limited is of little relevance for deciding the question whether a case of ‘conflict of interest’ is made out. In my opinion even assuming for the



sake of argument that 'leave of absence' obtained by Mr. Rahul Dravid from his employer, viz. Indian Cements Ltd. is of no consequence because of alleged close relationship between India Cements Ltd. and Chennai Super Kings Ltd, in his position as Chief Cricket Coach at NCA, he does not fall in any of the forms of Rules explained in Sub-rule (1) of the Rule 38 of the Rules to the afore stated issue. In my opinion, the question whether Mr. Rahul Dravid is a person who is in "governance, management or employment of a franchisee" has to be considered keeping in view the nature and his role as a "Team Official", as defined in Rule 1 (cc) of the Rules, on which issue, I have already returned a finding in para 20 (supra). Pertinently, as already noted above, the categorical stand of the BCCI is that since 2015, India Cements Limited is not an IPL franchisee in respect of CSK team, and therefore, Mr. Rahul Dravid is not covered under Rule 38 (4)(j) of the Rules. Nonetheless, in order to ensure that Mr. Dravid's performance as Head Cricket Coach of the NCA is not affected by his engagement with India Cements Limited, the BCCI requested him to obtain a 'leave of absence' from India Cements Limited for the entire duration of his contract with the BCCI. Pursuant to the said request of the BCCI, Mr. Dravid fulfilled this condition of appointment by furnishing a letter from India Cements Limited, giving him a 'leave of absence' from India Cements Limited for the entire duration of his contract with the BCCI. I may, however, hasten to add that, for the view I have taken above, it is unnecessary to go into the question of relationship between India Cements Ltd. and Chennai Super Kings Cricket Limited, though *prima facie*, the connection pleaded between the two posts, allegedly held by Mr. Dravid, is too remote to even warrant an examination of the merits of the argument advanced by the Complainant that the present is a case of a mere change in the nomenclature of the Company India Cements Ltd. to Chennai Super Kings Cricket Ltd. and hence Mr. Dravid continues to be a "person who is in governance, management or employment of a franchisee", notwithstanding the fact that he is an employee of India Cements Ltd.

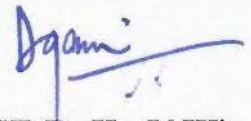


and is on 'leave of absence', thus, falling within the ambit of Clause (g) of Sub-rule (4) and Rule 38 of the Rules.

22. For all the aforesaid reasons I am convinced that on facts at hand, a case of "conflict of interest" as enshrined in the Rules is not made out.

23. Resultantly, the complaint is dismissed being bereft of any merit.

24. This order will be communicated to Mr. Rahul Dravid, the Complainant and the BCCI. The signed copy of this Order shall be kept in the folder of the Complaint.



**(JUSTICE D. K. JAIN)**  
**ETHICS OFFICER, BCCI**